
**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CINDY LEE GARCIA,

Plaintiff-Appellant

v.

GOOGLE, INC., YOUTUBE LLC, et al., Defendants-Appellees

and

NAKOULA BASSELEY NAKOULA, an individual, a.k.a. Sam Bacile, et al.,

Defendants.

On Appeal from the United States District Court

for the Central District of California

D.C. No. 2:12-cv-08315-MWF-VBK

APPELLANT'S EXCERPTS OF RECORD

Volume 4 of 4

Pages 742-950

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INDEX

APPELLANT'S EXCERPTS OF RECORD

Docket No.	Date	Description	Volume	Pages
1	9/26/2012	Complaint	1	1-62
5	10/4/2012	First Amended Complaint	1	63-122
8	10/11/2012	Plaintiff's <i>Ex Parte</i> Application to Exceed Page Limits Set Forth in Local Rule 11-6; Declaration of M. Cris Armenta in Support Thereof	1	123-126
10	10/12/2012	Declaration of M. Cris Armenta in Support of Plaintiff's Ex Parte Motion to Exceed page Limit Under Local Rule 11-6	1	127-132
11	10/12/2012	Order Denying Plaintiff's <i>Ex Parte</i> Application to Exceed Page Limit Under Local Rule 11-6	1	133-134
12	10/17/2012	<i>Ex Parte</i> Application For a	1	135-170

		Temporary Restraining Order and an Order of Impoundment; Declarations of Garcia, Sutter, Flynn, Fadl, Levine, hardy and Armenta; Request for Judicial Notice		
13	10/17/2012	Request For Judicial Notice	1	171-191
14	10/17/2012	Declaration of Cindy Lee Garcia, Dan Sutter, Gaylord Flynn, Dr. Khaled Abou El Fadl, All in Support of Ex Parte Application	1&2 2 Begins at ER 238	192-285
14-1	10/17/2012	Declaration of Zahavah Levine in Support of Ex Parte Application	2	286-405
14-2	10/17/2012	Declaration of David Hardy In Support of Ex Parte Application	2	406-484
14-3	10/17/2012	Declaration of M. Cris Armenta in Support of Ex	3	485-600

		Parte Application		
15	10/18/2012	Order Denying Ex Parte Application	3	601-602
18-1	10/22/2012	[Proposed] Order on Stipulation to Continue Hearing Date on Plaintiff's Motion for Preliminary Injunction	3	603-606
20	10/23/2012	Order on Stipulation to Continue Hearing Date on Plaintiff's Motion for Preliminary Injunction	3	607-610
22	10/29/2012	Opposition of Google Inc. and YouTube, LLC to Plaintiff's Motion for Preliminary Injunction and Order of Impoundment	3	611-641
22-1	10/29/2012	Request for Judicial Notice in Support of Opposition of Google Inc. and YouTube, LLC to Plaintiff's Motion	3	642-667

		for a Preliminary Injunction and Order of Impoundment		
23	10/29/2012	Opposition of Google Inc. and YouTube, LLC to Plaintiff's Request for Judicial Notice in Support of Motion for Preliminary Injunction and Order of Impoundment	3	668-675
24	10/29/2012	Objections By Google Inc. and YouTube, LLC to Evidence Submitted in Support of Plaintiff's Motion for Preliminary Injunction and Order of Impoundment	3	676-685
27	11/5/2012	(1) Reply Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction and	3	686-733

		<p>Order of Impoundment; Declaration of M. Cris Armenta in Support Thereof; (2) Plaintiff's Response to Objections by Google, Inc. and YouTube LLC to Evidence Submitted in Support of Plaintiff's Motion for Preliminary Injunction and Order of Impoundment;(3) Plaintiff's Objections to Evidence Submitted by Google Inc., and YouTube LLC, in Opposition Brief to Plaintiff's Motion for Preliminary Injunction and Order of Impoundment;(4) [Proposed] Order Sustaining Plaintiff's Objections to</p>		
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		Evidence Submitted by Google, Inc. and YouTube LLC in Opposition Brief to Plaintiff's Motion for Preliminary Injunction and an Order of Impoundment		
28	11/5/2012	Plaintiff's Objections to Evidence Submitted by Google Inc. and YouTube, LLC in Opposition Brief to Plaintiff's Motion for Preliminary Injunction and Order of Impoundment	3	734-741
29	11/05/2012	Plaintiff's Responses to Objections by Google Inc. and YouTube LLC to Evidence Submitted in Support of Plaintiff's Motion for Preliminary Injunction and	4	742-790

		Order of Impoundment		
33	11/28/2012	Declaration of Mark Basseley Youssef	4	791-798
34	11/28/2012	Declaration of Timothy L. Alger	4	799-806
35	11/29/2012	Plaintiff's Notice of Request Under Central District Local Rule 7-8 To Cross-Examine Declarants Submitted By defendants Google Inc. and YouTube, LLC	4	807-809
36	11/30/2012	Objections of Google Inc. and YouTube, LLC to Plaintiff's Notice of Request Under Central District Local Rule 7-8 to Cross-Examine Declarants	4	810-816
37	11/30/2012	Plaintiff's Objection to and Request to Strike Declarations of Time Alger and Mark Basseley	4	817-890

		Youssef; Declarations of M. Cris Armenta, Galord Flynn, Cindy Lee Garcia and Jim Blanco		
38	11/30/2012	Order Denying Request to Cross- Examine	4	891
39	11/30/2012	Order Denying Plaintiff Garcia's Motion for Preliminary Injunction	4	892-894
40	11/30/2012	Declaration of James A. Blanco in Support of Objection and Request to Strike Declarations of Tim Alger and Mark Basseley Youssef	4	895-945
42	12/21/2012	Notice of Appeal	4	946-950

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8
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Cindy Lee Garcia

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 CINDY LEE GARCIA, an
individual,

13 Plaintiff,

14 vs.

15 NAKOULA BASSELEY
16 NAKOULA, an individual also
known as SAM BACILE, MARK
17 BASSELEY YOUSSEF,
ABANOB BASSELEY
18 NAKOULA, MATTHEW
NEKOLA, AHMED HAMDY,
19 AMAL NADA, DANIEL K.
CARESMAN, KRITBAG
20 DIFRAT, SOBHI BUSHRA,
ROBERT BACILY, NICOLA
21 BACILY, THOMAS J. TANAS,
ERWIN SALAMEH, YOUSSEF
22 M. BASSELEY, and/or MALID
AHLAWI; GOOGLE, INC., a
23 Delaware Corporation;
YOUTUBE, LLC, a California
24 limited liability company, and
DOES 1 through 10, inclusive.

25 Defendants.
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Case No. CV12-8315 MWF (VBKx)

**PLAINTIFF'S RESPONSES TO
OBJECTIONS BY GOOGLE INC.
AND YOUTUBE, LLC TO
EVIDENCE SUBMITTED IN
SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION AND ORDER OF
IMPOUNDMENT**

1 Plaintiff Cindy Lee Garcia ("Plaintiff") submits the following responses to
 2 Defendants' objections to the evidence Plaintiff submitted in support of her Motion
 3 for Preliminary Injunction.

4 **I. Defendants' Objections to the Declaration of Zahava Levine**

5 Defendants have objected to the declaration of Zahava Levine, Chief Counsel
 6 to YouTube LLC ("YouTube"), including all exhibits, on relevancy grounds,
 7 because, they claim, Plaintiff is not seeking monetary relief pursuant to her motion
 8 for a preliminary injunction. Plaintiff responds that Ms. Levine's declaration is
 9 relevant in its entirety because it shows that Google, Inc. ("Google") and YouTube
 10 have a regular business practice of promptly responding to takedown requests, such
 11 as the many requests that Ms. Garcia has sent, in stark contrast to the Defendants'
 12 intransigence regarding the same.

13 Defendants further object to the declaration and its exhibits on hearsay
 14 grounds. This objection is entirely disingenuous. Ms. Levine is the principal lawyer
 15 for these defendants on these issues, and indeed *it was these very same defendants*
 16 *who submitted* Ms. Levine's declaration on the subject of their usual business
 17 practices. Accordingly, Ms. Levine's declaration is admissible as an admission of a
 18 party opponent pursuant to Federal Rule of Evidence 801(d)(2)(A)-(D).

19 **II. Defendants' Objections to the Declaration of Cindy Lee Garcia**

No.	Material Objected To	Ground(s) for Objection	Plaintiff's Response
1.	Paragraph 5, fifth sentence.	Hearsay not subject to any exception.	FED. R. EVID. 801(d)(2); party-opponent admission.
2.	Paragraph 7, in its entirety.	Improper legal conclusion.	Paragraph 7 merely relates Ms. Garcia's personal knowledge; neither Defendant Youssef (a/k/a Bacile a/k/a Nakoula) nor his

			agents hired her as an "employee." These statements are not "legal conclusions," but merely Ms. Garcia's personal recollections and observations admissible pursuant to Federal Rule of Evidence 602.
3, 4.	Paragraph 8, first and second sentences.	Improper legal conclusion, Speculation; lacks foundation.	The first sentence is not a legal conclusion; it is a statement of fact, which the Defendants have not rebutted despite ample time to attempt to do so. As to the second sentence, Ms. Garcia is not testifying that others <i>signed</i> or that they did not sign releases or work-for-hire agreements. That would be speculation. She is testifying that <i>she</i> is not aware of what other actors did or did not do. That is a statement of fact. Such a statement is similar to, "I am not aware if it was windy in Des Moines yesterday." However, in this case, other actors have declared in their own sworn statements that indeed they did not sign any such documents.
5.	Paragraph 9, second sentence.	Improper legal conclusion	This sentence is not a legal conclusion. It is a statement of fact that Defendants cannot rebut; and, Defendants have submitted no admissible evidence to rebut this statement of fact.
6.	Paragraph 10, third and fourth sentences.	Hearsay not subject to any exception.	FED. R. EVID. 801(d)(2).
7.	Paragraph 10, seventh sentence	Speculation.	Ms. Garcia's statement as to what she would have done had she been informed of the film's content and purpose – that is, to not participate – is not speculative in the least. The statement reflects Ms. Garcia's moral compass and belief that thoughtless denigration of any religion is contemptible.

1	8.	Paragraph 12, sentence two.	Hearsay not subject to any exception.	This sentence is not hearsay for two reasons. First, a party opponent uttered the words and second the words are not offered for the truth of the matter asserted. Clearly, the words that Youssef (a/k/a Bacile) said to Ms. Garcia <i>caused</i> her to do something; to look for the video.
2	9.	Paragraph 13, first sentence.	Speculation; lacks foundation; improper opinion testimony as to the impact of the film.	It is common knowledge (as contemplated by Federal Rule of Evidence 201) that the entire world was speculating about what caused the events that took place on that day. Though it was later suggested that the film likely was not <i>directly</i> responsible for what happened in Benghazi, it was widely reported on the national news networks that the film either caused the violence or was related to it. At the moment that Ms. Garcia is talking about, the first reports of the violence, the video was widely described as being inflammatory and part of the causation. Ms. Garcia, now watching and hearing herself utter words accusing the prophet Mohammed of being a child molester would most certainly cause any reasonable person to assume that what they said had an impact.
3	10.	Paragraph 13, fourth sentence.	Hearsay not subject to any exception.	FED. R. EVID. 801(2)(a), 803(3)
4	11.	Paragraph 13, sixth sentence.	Speculation.	It is difficult for Ms. Garcia to understand to which sentence Defendants are objecting. Suffice it to say, Ms. Garcia is not speculating when she states that the performance on the video is not what she performed nor is it speculation by Ms. Garcia for

1			her to state that had she been fully informed she would never have agreed to the performance later represented by "Bacile" – and in perpetuity by Defendants – as that which belongs to Ms. Garcia.
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5	12.	Paragraph 14, first sentence.	Speculation; lacks foundation; hearsay not subject to any exception.
6			"Went viral" is a term of art describing an event that becomes very popular very quickly usually through social media. That is exactly what happened with this video after the attacks of September 11, 2012, and is not speculation. Ms. Garcia does not say what media said to her. She states the effect of the calls on her.
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11	13.	Paragraph 14, third sentence.	Hearsay not subject to any exception.
12			That an Egyptian cleric issued a <i>fatwa</i> against Ms. Garcia is offered to show the effect on Ms. Garcia. The very next sentence, not objected to, underscores the effect that the <i>fatwa</i> , imagined or otherwise, had on Ms. Garcia.
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16	14.	Paragraph 15, second, third and fourth sentence.	Hearsay not subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
17			Offered to show the effect on the listener, not hearsay pursuant to Federal Rules of Evidence 803(1) and 801(3). Defendants would like to argue that the prejudicial effect outweighs the probative value, just as they continue to minimize the real world consequences of upsetting radicalized Muslim followers of persons like the Egyptian cleric who issued the <i>fatwa</i> . Ms. Garcia agrees that law enforcement's concern for her and her counsel is prejudicial; the truth is often highly prejudicial. Under the circumstances the prejudice of the evidence only underscores its probative value. It does not outweigh it.
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27	15.	Paragraph	Hearsay not
28			Same response as to objection

1	16, fourth sentence.	subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	14; also goes to explain the effect of the statements on her – that, because of the officer's concern, she was actually placed in a secure location and restricted from entry into an international airport.
5	16. Paragraph 17, first, third, fourth, fifth sentence and Exhibit B.	Hearsay not subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	The rawness and threat level associated with death threats sent via the Internet cannot be sanitized by time. At the moment that Ms. Garcia received the threats they were real to her and remain so. Such statements are exceptions to the hearsay rule via Federal Rules of Evidence 803(1) and 801(3). They also go to show the effect on the listener, Ms. Garcia.

III. Defendants' Objections to the Declaration of Dan Sutter

Defendants object to the declaration in its entirety on relevance grounds. Defendants are wrong. Mr. Sutter's Declaration is entirely relevant because, as an actor who also appeared in the Film, he is able to speak to his personal experience and observations pertaining to the making of the Film, including the facts that: (1) Defendant Youssef/Nakoula (a/k/a Bacile) did not obtain releases from the actors; and (2) Mr. Sutter's dramatic performance, like Ms. Garcia's dramatic performance, was altered without his participation or knowledge (specifically, the meaning of Mr. Sutter's lines were changed by the addition, without Mr. Sutter's knowledge, of inflammatory lines delivered by another actor that were inserted in post-production); and (3) Mr. Sutter's dramatic performance, like Ms. Garcia's dramatic performance, was posted on YouTube without Mr. Sutter's consent, notwithstanding the fact that he *did not sign a release*. In short, Mr. Sutter's declaration is every bit as relevant to this case as is Ms. Garcia's declaration and supports Ms. Garcia's version of events in their entirety.

No.	Material Objected To	Ground(s) for Objection	Plaintiff's Response
1.	Paragraph 2, second sentence.	Hearsay not subject to any exception.	FED. R. EVID. 801(2)(d).
2.	Paragraph 4, in its entirety.	Improper legal conclusion.	This is a statement of fact, not a legal conclusion. What Mr. Sutter does or does not recall is squarely a fact within his own personal knowledge. Defendants have provided no admissible evidence to rebut this statement of fact.
3.	Paragraph 5, third sentence.	Speculation; lacks foundation.	Mr. Sutter is capable of remembering what his character said and what the other character said in response. There can be no speculation when there is personal knowledge about the subject.

IV. Defendants' Objections to the Declaration of John Doe No. 1 (Gaylord Flynn)

While it was initially contemplated that Gaylord Flynn's declaration would be filed under seal, Mr. Flynn gave permission, after he signed the declaration for it to be publicly disclosed. (See Supplemental Declaration of M. Cris Armenta ¶ 2.)

Given the pressure of time, rather than have Mr. Flynn re-execute the declaration, counsel obtained his permission to disclose his name in the public filings. (*Id.*)

Defendants object to the declaration in its entirety on relevance grounds.

Defendants are wrong. Mr. Flynn's Declaration is entirely relevant because, as an actor who also appeared in the Film, he is able to speak to his personal experience and observations pertaining to the making of the Film, including the facts that: (1) Defendant Nakoula/Youssef (a/k/a Bacile) did not obtain releases from the actors; and (2) Mr. Flynn's dramatic performance, like Ms. Garcia's dramatic performance,

1 was altered without his participation or knowledge; and (3) Mr. Flynn's dramatic
 2 performance, like Ms. Garcia's dramatic performance, was posted on YouTube
 3 without Mr. Flynn's consent, notwithstanding the fact that he did not sign a release.
 4 In short, Mr. Flynn's declaration is every bit as relevant to this case as is Ms.
 5 Garcia's declaration and supports Ms. Garcia's version of events in their entirety.

No.	Material Objected To	Ground(s) for Objection	Plaintiff's Response
1.	Paragraph 2, third sentence.	Hearsay not subject to any exception.	This sentence references statements made by Mr. Youssef (a/k/a Bacile, a/k/a Bakoula) and/or his agents. Those statements are not hearsay, as they are admissions of a party opponent. FED. R. EVID. 801(2)(A)-(D).
2.	Paragraph 2, sixth sentence.	Hearsay not subject to any exception; speculation; lacks foundation; improper opinion testimony as to the impact of the Film.	This sentence references statements made by the Film's production team; i.e., the agents of Defendant Nakoula/Youssef (a/k/a Bacile) and/or his agents. Those statements are not hearsay, as they are admissions of a party opponent. FED. R. EVID. 801(2)(A)-(D). To the extent that Defendants object to the phrase "violence had broken out in the Middle East over [the Film's] content," the violence related to the Film's September 2012 posting on YouTube in the Arabic language (and/or with Arabic subtitles) is a matter of common, indeed, universal knowledge, and is therefore admissible under Federal Rules of Evidence 201(b) and 201(c)(1).
3.	Paragraph	Improper legal	Paragraph 4 merely relates Mr.

1		4, in its entirety.	conclusion.	Flynn's personal recollection: he is familiar with actor and model releases; he did not sign such a release; he was not employed by Defendant Nakoula/Youssef (a/k/a Bacile), and he did not sign a work-for-hire agreement. These statements are not "legal conclusions," but merely Mr. Flynn's personal recollections and observations admissible pursuant to Federal Rule of Evidence 602.
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8	4.	Paragraph 5, first sentence.	Lacks foundation; hearsay not subject to any exception.	This sentence references statements made by Nakoula/Youssef (a/k/a Bacile) and/or his agents. Those statements are not hearsay, as they are admissions of a party opponent. FED. R. EVID. 801(2)(A)-(D).
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13	5.	Paragraph 6, third sentence.	Speculation; lacks foundation.	The third sentence of Paragraph 6 merely relates Mr. Flynn's personal recollection: the content of the Film, specifically, the lines <i>that Mr. Flynn himself spoke</i> , were different in the trailer than his personal observations (and performance of his line on-set) had indicated. Moreover, as an actor, Mr. Flynn certainly is aware that when his character appeared to say words in the trailer that he, in his personal knowledge, knows that he did not say, that those words would have been inserted in post-production. Accordingly, this sentence merely sets forth Mr. Flynn's personal recollections and observations admissible pursuant to Federal Rule of Evidence 602.
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25	6.	Paragraph 6, fifth sentence.	Speculation; vague; ambiguous.	The third sentence of Paragraph 6 merely relates Mr. Flynn's personal recollection: that the lines he personally viewed himself appearing to deliver in the trailer of the Film were not
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1			the same as the lines that he delivered on-set. To the extent that Mr. Flynn states that his recollection may not be exact, that goes to weight, not admissibility. Accordingly, this sentence merely sets forth Mr. Flynn's personal recollections and observations admissible pursuant to Federal Rule of Evidence 602.
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7	7.	Paragraph 6, sixth sentence.	Relevance; improper opinion testimony regarding the inflammatory nature of the lines.
8			The first portion of sentence 6 merely relates Mr. Flynn's recollection of lines that he said during post-production in which he participated. Accordingly, it is admissible pursuant to Federal Rule of Evidence 602.
9			The second portion of sentence 6, in which Mr. Flynn indicates that he did not consider "performing a marriage" while in character to be inflammatory, is not improper opinion testimony. Rather, it simply goes to the <i>facts</i> at the heart of this case: that the actors, including Ms. Garcia and Mr. Flynn, were misled into believing that they were participating in an innocuous historical drama. Mr. Flynn's observation that he did not view the marriage ceremony as "inflammatory" merely supports his contention (and Ms. Garcia's contention) that during their involvement in the making of the Film, they observed nothing that would indicate that the Film would be released as a hateful propaganda piece.
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V. Defendants' Objections to the Declaration of Khaled Abou El Fadl.

It is well noted here that Defendants do not make any objection to Professor El Fadl's declaration generally on the grounds of relevance, as it has done with most of the other declarations. Thus, it appears that Defendants concede that Professor El

1 Fadi's declaration is relevant. Equally important is the fact that Defendants do does
2 not object to anything in the first six paragraphs of Professor El Fadi's declaration—
3 a devastating admission by Defendants.

4 All of the first six paragraphs of Professor El Fadi's declaration pertain to his
5 bona fide qualifications and depth of knowledge. Had Defendants objected to
6 Professor El Fadi's expert testimony in his declaration it would have objected to the
7 statements that demonstrate his training and experience, his knowledge of Islamic
8 law, and his international knowledge on subjects germane to the topics directly at
9 issue in this case. For this reason alone – Defendants' acquiescence that Professor
10 El Fadi is the expert he shows himself to be – this Court should summarily reject all
11 of Defendants's subsequent objections.

12 Plaintiff notes that, aside from Professor El Fadi's incontrovertible
13 qualifications, Defendants parsed his virtually word by word, and for good reason.
14 Defendants assert time and again that Rule 403 silences Professor El Fadi—in other
15 words, that the "prejudicial" effect of his testimony outweighs its probative value.
16 Indeed, Defendants appear to concede that they cannot prevail unless this Court
17 discards Professor El Fadi's testimony virtually in its entirety, because Professor El
18 Fadi's testimony establishes that Ms. Garcia is very much in harm's way. Professor
19 El Fadi draws upon his expansive, deep, and profound training and experience to
20 inform the Court that many people associated with the Film, but *in particular* Ms.
21 Garcia, are in imminent danger. Moreover, Professor El Fadi calls into question
22 Defendants' ability to differentiate *evocative* speech from *provocative* hate speech.
23 In particular, Google and YouTube, through their agents, have unequivocally stated
24 that the video shall remain on YouTube (unless, presumably, a court orders them to
25 take it down because, according to those Defendants, the crude propaganda film
26 evokes an important social dialogue. Professor El Fadi's declaration is more
27 probative than prejudicial because it describes the video exactly as it is: fighting
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words intended to incite violence. And it is hornbook law that fighting words are outside the protections of the First Amendment. See, e.g., Brandenburg v. Ohio, 395 U.S. 444, 447 (1969) (speech directed to inciting or producing imminent lawless action and likely to incite or product such action not protected by First Amendment).

The video did not evoke dialogue; it provoked immediate violence. Professor identifies the video for exactly what it is: unprotected fighting words that have directly and significantly impacted Ms. Garcia, an entirely innocent person who Nakoula/Youssef, a/k/a/ Bacile, treated as a virtual “puppet” for his message. Defendants can deny this situation by interposing more than sixty (60) objections to Professor El Fadl’s Declaration. But Defendants cannot refute the powerful message contained therein. Defendants perpetuate hate and fighting words, knowingly endangering the life and safety of Ms. Garcia and those around her, while hiding behind the not impenetrable cloak of the First Amendment. Though Defendants would like to think that otherwise, corporations like them are not the arbiters of what is and is not “free speech”: the law, as interpreted by this Court, does is that arbiter.

No.	Material Objected To	Ground(s) for Objection	Plaintiff’s Response
1.	Paragraph 7, second sentence.	Speculation; lacks foundation; improper expert opinion as to the safety of all actors in the film; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	The second sentence of this paragraph prefaces El Fadl’s conclusions below. Moreover, in light of El Fadl’s extensive experience and qualifications, particularly with respect to the legal systems and culture of the Middle East, Islamic law, and terrorism, he is more than qualified to opine on the potential danger to Ms. Garcia and the other actors. FED. R. EVID. 702.

1			Defendants' Rule 403 objection, moreover, is spurious. The imminent danger to Ms. Garcia's life and safety is at the heart of this case. While learned testimony on that subject may be damaging to Defendants' resolve to continue to profit from the Film, that testimony can hardly be said to be "unfair."
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6	2.	Paragraph 8, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth sentence.	Speculation; lacks foundation; lacks personal knowledge; hearsay not subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
7			Sentences 2 and 3: Here, Defendants apparently make a hearsay objection to El Fadl's statement that Morris Sadek distributed an Arabic translation of the Film in September. However, experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing Fed. R. Evid. 703. Here, El Fadl's statement related to the distribution of the film merely explains part of the basis on which his opinions rest; accordingly, it is admissible.
8			Sentence 4: Similarly, here, Defendants apparently make a hearsay objection to El Fadl's statement that the Film was aired on an Egyptian television station. That statement is admissible for the same reasons set forth with respect to Defendants' objection to Sentences 2 and 3.
9			Sentence 5: Here, Defendants' "speculation," "lack of personal knowledge," "hearsay," and "lack of foundation" objections are unmeritorious, for the same reasons set forth with respect to Defendants' objection to Sentences 2 and 3. To the extent that Defendants' objection to this sentence rests on Rule 403, it is also not well taken, as the information may be damaging to Defendants' case, but it is certainly not unfairly so in light
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1			of the ultimate consequences to Ms. Garcia as a result of the public's reaction to the Film.
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3			Sentences 6 and 7: Defendants apparently object to Sentences 6 and 7, which relay a summary of a <i>Wall Street Journal</i> article on which El-Fadl relied, on the basis of hearsay. This objection is unmeritorious for the same reasons set forth with respect to Defendants' objection to Sentences 2 and 3.
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8			Sentences 8-12: Plaintiffs are unclear as to the basis of Defendants' objection to Sentence 8, in which El Fadl states that he personally observed news coverage of the Film that appeared on Arabic-language channels. These sentences are admissible pursuant to Federal Rule of Evidence 602 as the personal recollection and observations of El Fadl. To the extent that Defendants claim they include hearsay, that objection would be unmeritorious for the same reasons set forth with respect to Defendants' objection to Sentences 2 and 3.
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18	3.	Paragraph 8, fifth sentence.	Sentence 5: Here, Defendants object to El Fadl's opinion that the Film sparked protests in Egypt. Their "speculation," "lack of personal knowledge," "hearsay," and "lack of foundation" objections are unmeritorious; experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <i>Heishman v. Ayers</i> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing Fed. R. Evid. 703.
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26			To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no
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1			objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case.
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7	4.	Paragraph 9, in its entirety.	Speculation; lacks foundation; lacks personal knowledge; hearsay not subject to any exception; best evidence rule; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
8			Plaintiffs are unclear as to the basis for Defendants' "speculation," "lack of foundation," "lack of personal knowledge," and "hearsay" objections, as paragraph 9 merely contains El Fadl's summary of media reports on which he relied in forming his opinion. Experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing Fed. R. Evid. 703).
9			Defendants' "best evidence rule" objection is equally unmeritorious, as El-Fadl is providing his opinion on his personal knowledge, facts, and data of a type reasonably relied upon by experts in his field; accordingly, "[t]he best evidence rule is inapplicable." <u>Cal. Dept. of Toxic Substances Control v. Interstate Non-Ferrous Corp.</u> , 298 F.Supp.2d 930, 987 (E.D. Cal. 2003) (overruling "best evidence rule" objection to expert testimony).
10			Finally, Plaintiffs are unclear why Defendants take the position that Rule 403 bars El Fadl from relating the official statement of the American Embassy in Cairo condemning the Film. The incendiary reaction to the Film that is the subject of the
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1			Embassy's statement may be detrimental to Defendants' case, but it is certainly not unfairly so in light of the ultimate consequences to Ms. Garcia as a result of the public reaction (particularly in the Middle East) to the Film.
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6	5.	Paragraph 10, in its entirety.	Plaintiffs are unclear as to the basis for Defendants' "lack of foundation," "lack of personal knowledge," and "hearsay" objections, as paragraph 10 merely contains El Fadl's summary of media reports (related to the events that took place in Benghazi, Libya, on September 11, 2012) on which he relied in forming his opinion. Experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing Fed. R. Evid. 703.
7		Lacks foundation; lacks personal knowledge; hearsay not subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' Rule 403 objection is also unmeritorious. The incendiary reaction to the Film that many initially blamed for the Benghazi attacks may be detrimental to Defendants' case, but it is certainly not unfairly so in light of the death threats that Ms. Garcia has received from individuals all over the world, including in the Middle East.
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22	6.	Paragraph 11, in its entirety.	Plaintiffs are unclear as to the basis for Defendants' "lack of foundation," "hearsay," and "lack of personal knowledge," objections, as paragraph 11 merely contains El Fadl's observation of a matter of universal knowledge (see Fed. R. Evid. 201): that protests erupted worldwide against the Film starting around September of 2012. These are facts on which
23		Lacks foundation; hearsay not subject to any exception; lacks personal knowledge; vague and ambiguous as to the terms "violence" and "dramatic	
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1		events";	he reasonably relied in forming
2		probative value	his opinion. Experts are entitled
3		outweighed by	to base their opinions on hearsay
4		unfair prejudice	and other materials reasonably
5		(Fed. R. Evid.	relied on by experts in that field.
6		403).	<u>Heishman v. Ayers</u> , 621 F.3d
7			1030, 1042 (9 th Cir. 2010, citing
8			Fed. R. Evid. 703.
9			Defendants' "vague and
10			ambiguous" objection is not well-
11			taken, as they fail to explain how
12			the simple terms "violence" and
13			"dramatic events" are susceptible
14			to more than one determination
15			or are otherwise vague; this
16			essentially is a boilerplate
17			objection and, therefore,
18			improper. See, e.g., <u>Nesby v.</u>
19			<u>City of Oakland</u> , 2007 U.S. Dist.
20			<u>LEXIS 22574</u> , *4 (N.D. Cal.
21			Mar. 19, 2007) (rejecting
22			litigant's request to exclude
23			evidence from declarations on
24			grounds of "vagueness" where
25			court found that the supposedly
26	7.	Paragraph	objectionable terms could be
27		12, in its	construed by looking at the
28		entirety,	dictionary); cf. <u>Bible v. Rio</u>
		and Exhibit	<u>Props, Inc.</u> , 246 F.R.D. 614, 619
			(C.D. Cal. 2007) (in context of
			discovery motion, ruling that
			conclusory general or boilerplate
			objections such as "vague and
			ambiguous" are improper where
			they do not provide enough
			information as to allow court to
			ascertain objectionable nature of
			the material objected to).
			Defendants' Rule 403 objection
			is also unmeritorious. The
			incendiary reaction to the Film
			that many initially blamed for the
			Benghazi attacks may be
			detrimental to Defendants' case,
			but it is certainly not unfairly so
			in light of the death threats that
			Ms. Garcia has received from
			individuals all over the world.
		Lacks	Plaintiffs are unclear as to the
		foundation;	basis for Defendants' "lack of
		hearsay not	foundation," "hearsay," and "lack
		subject to any	of personal knowledge"

1	B.	exception; lacks personal knowledge; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	objections, as paragraph 12 merely contains El Fadl's summary of Secretary of State Hillary Clinton's statement condemning the Film, on which he relied in forming his opinion. Experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
2			Defendants' Rule 403 objection also is unmeritorious. The incendiary reaction to the Film that is the subject of Secretary Clinton's statement may be detrimental to Defendants' case, but it is certainly not unfairly so in light of the ultimate consequences to Ms. Garcia as a result of the public reaction (particularly in the Middle East) to the Film.
3	8.	Paragraph 13, in its entirety, and Exhibit C.	Plaintiffs are unclear as to the basis for Defendants' "lack of foundation," "hearsay," and "lack of personal knowledge" objections, as paragraph 13 merely contains El Fadl's summary of President Barack Obama's statement condemning the Film, on which he relied in forming his opinion. Experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
4		Lacks foundation; hearsay not subject to any exception; lacks personal knowledge; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' Rule 403 objection also is unmeritorious. The incendiary reaction to the Film that is the subject of President Obama's statement may be detrimental to Defendants' case, but it is certainly not unfairly so in light of the ultimate

1			consequences to Ms. Garcia as a result of the public reaction (particularly in the Middle East) to the Film.
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3	9.	Paragraph 14, in its entirety.	Speculation; lacks foundation; lacks personal knowledge; hearsay not subject to any exception; best evidence rule; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
4			Plaintiffs are unclear as to the basis for Defendants' "speculation," "lack of foundation," "lack of personal knowledge," and hearsay objections, as paragraph 14 merely contains El Fadl's summary of Egyptian cleric Ahmad Fouad Ashoush's <i>fatwa</i> against Ms. Garcia and others involved in the making of the Film, on which he relied in forming his opinion. Experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
5			Defendants' "best evidence rule" objection is equally unmeritorious, as El Fadl is providing his opinion on his personal knowledge, facts, and data of a type reasonably relied upon by experts in his field; accordingly, "[t]he best evidence rule is inapplicable." <u>Cal. Dept. of Toxic Substances Control v. Interstate Non-Ferrous Corp.</u> , 298 F.Supp.2d 930, 987 (E.D. Cal. 2003) (overruling "best evidence rule" objection to expert testimony).
6			Defendants' Rule 403 objection also is unmeritorious. The incendiary reaction to the Film exemplified by the <i>fatwa</i> devastates Defendants' argument that Ms. Garcia is not in any imminent danger. But those facts, while prejudicial to Defendants case, are entirely fair to admit into evidence.
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27	10.	Paragraph	Speculation;
28			Plaintiffs are unclear as to the

1		15, in its entirety.	lacks foundation; lacks personal knowledge; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	basis for Defendants' "speculation," "lack of foundation," and "lack of personal knowledge" objections, as paragraph 15 merely contains El Fadl's summary of events publicized in the media worldwide following the issuance of the <i>fatwa</i> , on which he relied in forming his opinion. Experts are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
2				Defendants' Rule 403 objection also is unmeritorious. The incendiary reaction to the Film exemplified by the <i>fatwa</i> devastates Defendants' argument that Ms. Garcia is not in any imminent danger. But those facts, while prejudicial to Defendants case, are entirely fair to admit into evidence.
3	11.	Paragraph 15, third sentence and Exhibit D.	Hearsay not subject to any exception; exhibit not attached.	Defendants' "hearsay" objection to the contents of news reports about the <i>fatwa</i> lack merit. Experts such as El Fadl are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
4	12.	Paragraph 15, fourth sentence.	Speculation; lacks foundation; improper expert opinion regarding whether violence occurred.	To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of Dr. El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a

1			person of greater qualifications than Dr. El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on the Film's relationship to the worldwide violence following its Arabic-language posting on YouTube. FED. R. EVID. 702.
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6	13.	Paragraph 16, first and third sentences.	Defendants' "hearsay" and "lacks personal knowledge" objections to El Fadl's statements pertaining to condemnation of the film by a Hezbollah leader and the reissuance of an Iranian fatwa against Salman Rushdie lack merit. Experts such as El Fadl are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
7		Hearsay not subject to any exception; lacks personal knowledge; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' Rule 403 objection also is unmeritorious. The incendiary reaction to the Film exemplified by the <i>fatwa</i> devastates Defendants' argument that Ms. Garcia is not in any imminent danger. But those facts, while prejudicial to Defendants case, are entirely fair to admit into evidence.
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20	14.	Paragraph 16, second sentence.	Defendants' "speculation" and "lacks foundation" objections to El Fadl's opinion on the similarities between the <i>fatwa</i> on Salman Rushdie and the <i>fatwa</i> on Ms. Garcia lack merit. Experts such as El Fadl are entitled to base their opinions on any material reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
21		Speculation; lacks foundation; improper expert opinion regarding the fatwa allegedly issued on the life of the actors in the film.	To the extent that Defendants claim that El Fadl is not an
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1				"expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on the <i>fatwa</i> against Ms. Garcia. FED. R. EVID. 702.
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10	15.	Paragraph 16, third sentence.	Hearsay not subject to any exception; speculation; exhibit not attached.	Defendants' "hearsay" and "speculation" objections to El Fadl's statement pertaining to the reissuance of an Iranian fatwa against Salman Rushdie lack merit. Experts such as El Fadl are entitled to base their opinions on hearsay, provided that the hearsay is of the type reasonably relied on by experts in that field. <i>Heishman v. Ayers</i> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
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18	16.	Paragraph 16, fourth and fifth sentences.	Speculation; lacks foundation; lacks personal knowledge; improper legal conclusion; vague and ambiguous.	Defendants' "speculation," "lacks foundation," and "lacks personal knowledge," objections to El Fadl's opinion related to the fact that Ms. Garcia has been barred from entering international airports (a subject on which Ms. Garcia testified in her own declaration) and her designation as a high security risk, and her inability to travel, lack merit. Experts such as El Fadl are entitled to base their opinions on any material reasonably relied on by experts in that field. <i>Heishman v. Ayers</i> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
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28				Defendants' "improper legal

1			conclusion” objection is also not well taken. First, El-Fadl does not make a legal conclusion: he states that Ms. Garcia’s right to travel is “likely” impinged. And, Ms. Garcia offers corroborating evidence of this conclusion – in that, she was not even permitted to enter the La Guardia International Airport on September of 2012. Second, El Fadl is, among other things, a lawyer, and therefore entirely qualified to opine on the law, particularly in light of the fact that Ms. Garcia’s right to travel is not a matter requiring an “ultimate legal conclusion” in this case.
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11			Defendants’ “vague and ambiguous” objection also fails, as they do not explain at all how sentences 4 and 5 of paragraph 16 are either vague or ambiguous; this essentially is a boilerplate objection and, therefore, improper. See, e.g., <u>Nesby v. City of Oakland</u> , 2007 U.S. Dist. LEXIS 22574, *4 (N.D. Cal. Mar. 19, 2007) (rejecting litigant’s request to exclude evidence from declarations on grounds of “vagueness” where court found that the supposedly objectionable terms could be construed by looking at the dictionary); cf. <u>Bible v. Rio Props, Inc.</u> , 246 F.R.D. 614, 619 (C.D. Cal. 2007) (in context of discovery motion, ruling that conclusory general or boilerplate objections such as “vague and ambiguous” are improper where they do not provide enough information as to allow court to ascertain objectionable nature of the material objected to).
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26	17.	Paragraph 17, fourth sentence.	Defendants’ “speculation” and “lacks foundation” objections to El Fadl’s opinion on the meaningfulness of a <i>fatwa</i> lack
27		Speculation; lacks foundation; vague and	
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1			ambiguous.	merit. Here, El Fadl bases his opinion on his expertise in national security and terrorism issues; as an expert, he is entitled to base their opinions on any material reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
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6				Defendants' "vague and
7				ambiguous" objection also fails,
8				as they do not explain at all how
9				sentence 4 of paragraph 17 is
10				either vague or ambiguous; this
11				essentially is a boilerplate
12				objection and, therefore,
13				improper. See, e.g., <u>Nesby v.</u>
14				<u>City of Oakland</u> , 2007 U.S. Dist.
15				LEXIS 22574, *4 (N.D. Cal.
16				Mar. 19, 2007) (rejecting
17				litigant's request to exclude
18				evidence from declarations on
19				grounds of "vagueness" where
20				court found that the supposedly
21	18.	Paragraph	Speculation;	Defendants' "speculation" and
22		17, fifth	lacks	"lacks foundation" objections to
23		sentence.	foundation;	El Fadl's opinion on the grave
24			improper legal	danger that Ms. Garcia is in as
25			conclusion;	the result of the <i>fatwa</i> lack merit.
26			improper expert	Here, El Fadl bases his opinion
27			testimony	on his expertise in national
28			regarding the	security and terrorism issues; as
			danger to	an expert, he is entitled to base
			Plaintiff;	their opinions on any material
			probative value	reasonably relied on by experts in
			outweighed by	that field. <u>Heishman v. Ayers</u> ,
			unfair prejudice	621 F.3d 1030, 1042 (9 th Cir.
			(Fed. R. Evid.	2010, citing FED. R. EVID. 703).

1		403).	Defendants' "improper legal conclusion" objection is also not well taken. First, El Fadl does not make a legal conclusion: he states that Ms. Garcia "is in grave danger" from the <i>fatwa</i> .
2			To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on the <i>fatwa</i> against Ms. Garcia. FED. R. EVID. 702.
3			Defendants' Rule 403 objection also is unmeritorious. The incendiary reaction to the Film exemplified by the <i>fatwa</i> devastates Defendants' argument that Ms. Garcia is not in any imminent danger. But those facts, while prejudicial to Defendants case, are entirely fair to admit into evidence.
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20	19.	Paragraph 17, sixth sentence.	Defendants' "speculation" and "lacks foundation" objections to El Fadl's opinion on the grave danger that Ms. Garcia is in as the result of other extremist or fanatic groups seeking to harm Ms. Garcia lack merit. Here, El Fadl bases his opinion on his expertise in national security and terrorism issues; as an expert, he is entitled to base their opinions on any material reasonably relied on by experts in that field. <i>Heishman v. Ayers</i> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing
21		Speculation; lacks foundation; improper expert testimony regarding unannounced or secretive calls by extremist or fanatic groups; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	
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1			FED. R. EVID. 703).
2			To the extent that Defendants
3			claim that El Fadl is not an
4			"expert," Plaintiffs note that
5			Defendants have made no
6			objection to the first six
7			paragraphs of El Fadl's
8			declaration, in which he sets forth
9			his expert qualifications on the
10			subjects of the law and culture of
11			the Middle East, Islamic law, and
12			terrorism at great length. Indeed,
13			it would be hard to imagine a
14			person of greater qualifications
15			than El Fadl to render expert
16			testimony in this case. As an
17			expert, he is entitled to render his
18			opinion on the danger Ms. Garcia
19	20.	Paragraph	faces from extremist and fanatic
20		18, second	groups in the Muslim world.
21		sentence.	FED. R. EVID. 702.
22			Defendants' Rule 403 objection
23			also is unmeritorious. The
24			incendiary reaction to the Film
25			exemplified by the <i>fatwa</i> and
26			other documented threats against
27			Ms. Garcia devastates
28			Defendants' argument that Ms.
			Garcia is not in any imminent
			danger. But those facts, while
			prejudicial to Defendants case,
			are entirely fair to admit into
			evidence.
			Defendants' "speculation" and
			"lacks foundation" objection to
			El Fadl's opinion on the
			centrality of Ms. Garcia's role in
			the Film lack merit. Here, El Fadl
			bases his statement on his
			personal observance of the Film
			and Ms. Garcia's appearance in
			it. As an expert, he is entitled to
			base his opinions on that personal
			observation. FED. R. EVID. 703.
			Defendants' "vague and
			ambiguous" objection also fails,
			as they do not explain at all how
			sentence 2 of paragraph 18 is
			either vague or ambiguous; this
			essentially is a boilerplate

1			objection and, therefore, improper. See, e.g., <i>Nesby v. City of Oakland</i> , 2007 U.S. Dist. LEXIS 22574, *4 (N.D. Cal. Mar. 19, 2007) (rejecting litigant's request to exclude evidence from declarations on grounds of "vagueness" where court found that the supposedly objectionable terms could be construed by looking at the dictionary); cf. <i>Bible v. Rio Props, Inc.</i> , 246 F.R.D. 614, 619 (C.D. Cal. 2007) (in context of discovery motion, ruling that conclusory, general or boilerplate objections such as "vague and ambiguous" are improper where they do not provide enough information as to allow court to ascertain objectionable nature of the material objected to).
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13	21.	Paragraph 18, fourth sentence.	Defendants' "lacks personal knowledge," "speculation," and "lacks foundation" objection to El Fadl's opinion on the fact that a controversy has arisen concerning whether the Film caused worldwide violence lack merit. Here, El Fadl bases his statement on his personal observance of the controversy. As an expert, he is entitled to base his opinions on that personal observation. FED. R. EVID. 703. Moreover, the existence of the controversy is a matter of near-universal knowledge. FED. R. EVID. 201.
14		Lacks personal knowledge; speculation; lacks foundation; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' Rule 403 objection also is unmeritorious. It is unclear how the existence of a controversy about the connection between violence and the Film is prejudicial in any way: it is merely a controversy. Accordingly, Rule 403 does not bar its admission.
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1	22.	Paragraph 19, in its entirety.	Hearsay not subject to any exception; lacks foundation; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "hearsay" and "lacks foundation" objections to El Fadl's statement that news reports indicate that people have died in the violence allegedly sparked by the Film lack merit. Experts such as El Fadl are entitled to base their opinions on hearsay, provided that the hearsay or other materials relied upon are of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
2				Defendants' Rule 403 objection also is unmeritorious. The violent worldwide reaction to the Film damages Defendants' argument that Ms. Garcia is not in any imminent danger. But the fact of that violence, while damaging to Defendants case, is entirely fair to admit into evidence.
3	23.	Paragraph 20, in its entirety.	Hearsay not subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "hearsay" objections to El Fadl's statement that news reports indicate that people have died in the violence allegedly sparked by the Film lack merit. Experts such as El Fadl are entitled to base their opinions on hearsay, provided that the hearsay or other materials relied upon are of the type reasonably relied on by experts in that field. <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
4				Defendants' Rule 403 objection also is unmeritorious. The violent worldwide reaction to the Film damages Defendants' argument that Ms. Garcia is not in any imminent danger. But the fact of that violence, while damaging to Defendants case, is entirely fair to admit into evidence.
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1	24.	Paragraph 21, first sentence.	Speculation; lacks personal knowledge; lacks foundation; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "speculation," "lacks personal knowledge," and "lacks foundation" objection to El Fadl's statement that Ms. Garcia's life has been forever changed lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field; here, he relies both on his personal observations (<i>see</i> Fed. R. Evid. 602) and the many materials cited throughout his declaration supporting his opinions. <i>See</i> Heishman v. Ayers, 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
2				Defendants' Rule 403 objection also is unmeritorious. The damages Ms. Garcia has and will experience may hurt Defendants' case; they are, however, entirely fair to admit into evidence.
3	25.	Paragraph 21, second sentence.	Speculation; lacks personal knowledge; lacks foundation; improper legal conclusion; improper expert opinion regarding Plaintiff's ability to travel; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "speculation," "lacks personal knowledge," and "lacks foundation" objection to El Fadl's statement that Ms. Garcia's inability to travel lacks merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field; here, he relies both on his personal observations (<i>see</i> Fed. R. Evid. 602) and the many materials cited throughout his declaration supporting his opinions. <i>See</i> Heishman v. Ayers, 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
4				Defendants' "improper legal conclusion" objection is also not well taken. First, El Fadl does not make a legal conclusion: he states that Ms. Garcia "cannot easily travel internationally." Second, El Fadl is, among other things, a lawyer, and therefore entirely qualified to opine on the

1			law, particularly in light of the fact that Ms. Garcia's ease of travel is not a matter requiring an "ultimate legal conclusion" in this case.
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4			Defendants' Rule 403 objection also is unmeritorious. The damages Ms. Garcia has and will experience may hurt Defendants' case; they are, however, entirely fair to admit into evidence.
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7	26.	Paragraph 21, third sentence.	Defendants' "speculation," "lacks personal knowledge," and "lacks foundation" objection to El Fadl's statement that Ms. Garcia's inability to travel lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field; here, he relies on the many materials cited throughout his declaration supporting his opinions. See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
8		Speculation; lacks personal knowledge; lacks foundation; improper expert opinion regarding the world's view of Plaintiff; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on the danger Ms. Garcia faces from extremist and fanatic groups in the Muslim world. FED. R. EVID. 702.
9			Defendants' Rule 403 objection also is unmeritorious. The damages Ms. Garcia has and will experience may hurt Defendants'
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1			case; they are, however, entirely fair to admit into evidence.
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3	27.	Paragraph 21, fourth, fifth, and sixth sentences.	Defendants' "speculation," "lacks personal knowledge," and "lacks foundation," and "hearsay" objections to El Fadl's statements that Ms. Garcia's statements have been controversial and that the Film is seen as an attack on Islam lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited throughout his declaration supporting his opinions, as well as his personal observation. See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703); <u>see also</u> FED. R. EVID. 602.
4		Speculation; lacks personal knowledge; lacks foundation; hearsay not subject to any exception; improper expert opinion regarding how the film and Plaintiff are universally; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on perceptions of Ms. Garcia and the Film in the Muslim world. FED. R. EVID. 702.
5			Defendants' Rule 403 objection also is unmeritorious. The fact that Ms. Garcia is viewed as the bringer of an attack on Islamic values and culture may hurt Defendants' case; it is, however, entirely fair to admit into
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1			evidence.
2	28.	Paragraph 21, seventh, eighth and ninth sentences.	<p>Speculation; lacks personal knowledge; lacks foundation; improper legal conclusion; improper expert testimony regarding the danger to Plaintiff; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).</p> <p>Defendants' "speculation," "lacks personal knowledge," and "lacks foundation," objections to El Fadl's statements that Ms. Garcia's public stand against the Film has protected her life and safety by giving her credibility lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited throughout his declaration supporting his opinions, as well as his personal knowledge of the manner in which her sincerity will be perceived among those extremist elements in the Muslim world who seek to harm her. See <u>Heishman v. Ayers</u>, 621 F.3d 1030, 1042 (9th Cir. 2010, citing FED. R. EVID. 703); see also FED. R. EVID. 602.</p> <p>Defendants' "improper legal conclusion" objection is also not well taken. First, El Fadl does not make a legal conclusion: he states that Ms. Garcia's safety may currently be protected because she has taken a public stand against the Film. Second, El Fadl is, among other things, a lawyer, and therefore entirely qualified to opine on the law, particularly in light of the fact that the fact of Ms. Garcia's filing of this lawsuit is not a matter requiring an "ultimate legal conclusion" in this case.</p> <p>To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of</p>

1			the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on the current danger to Ms. Garcia from extremists in the Muslim world, and how the steps Ms. Garcia is taking may ameliorate that danger. FED. R. EVID. 702.
2			Defendants' Rule 403 objection also is unmeritorious. The fact that Ms. Garcia's safety may be somewhat protected, for now, as a result of her public stand against the Film may hurt Defendants' case; it is, however, entirely fair to admit into evidence.
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13	29.	Paragraph 22, in its entirety.	Defendants' "relevance" objection is not well taken. Every sentence in paragraph 22 pertains to Ms. Garcia, her involuntary insertion into a dangerous international controversy due to Defendants' actions, the bigoted nature of the Film, Defendants' public claims not to support "hate speech," and worldwide reaction to the Film relates directly to the matters at issue in Plaintiff's motion for an injunction.
14		Relevance; lacks personal knowledge; speculation; improper expert testimony regarding personal opinion of film; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "lacks personal knowledge" and "speculation" objections to paragraph 22 also lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited throughout his declaration supporting his opinions. See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID.
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1			703).
2			To the extent that Defendants
3			claim that El Fadl is not an
4			"expert," Plaintiffs note that
5			Defendants have made no
6			objection to the first six
7			paragraphs of El Fadl's
8			declaration, in which he sets forth
9			his expert qualifications on the
10			subjects of the law and culture of
11			the Middle East, Islamic law, and
12			terrorism at great length. Indeed,
13			it would be hard to imagine a
14			person of greater qualifications
15			than El Fadl to render expert
16			testimony in this case. As an
17			expert, he is entitled to render his
18			opinion on whether or not the
19			Film is hate speech, as well as the
20			likely incitement effect of the
21			Film's treatment of "the sacred
22			symbols and beliefs of Muslims."
23			FED. R. EVID. 702.
24			Defendants' Rule 403 objection
25			also is unmeritorious. The fact
26			that YouTube has acted
27			hypocritically in claiming not to
28			support hate speech, while
			refusing to remove the Film in
			light of universal agreement that
			the Film is hate speech, may hurt
			Defendants' case; it is, however,
			entirely fair to admit into
			evidence.
30.	Paragraph 22, third, fifth, seventh, eighth and ninth sentences.	Speculation; lacks foundation; improper legal conclusion; improper expert opinion regarding personal opinion of film; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "speculation" and "lacks foundation" objections to sentences 3, 5, 7, 8, and 9 of paragraph 22 lack merit. Sentence 3 and 5 merely set forth El Fadl's expert opinion that the Film is hate speech. Sentences 7-9 set forth, as a matter of personal observation, the likely effect on a viewer of the Film, as well as YouTube's documented hypocrisy in refusing to remove it. Experts such as El Fadl are entitled to base opinions such as these on any materials reasonably relied on by experts in that field,

1 including hearsay; here, he relies
2 on the many materials cited
3 throughout his declaration
4 supporting his opinions. See
5 Heishman v. Ayers, 621 F.3d
6 1030, 1042 (9th Cir. 2010, citing
7 FED. R. EVID. 703).

8 Defendants' "improper legal
9 conclusion" objection is also not
10 well taken. El Fadl is, among
11 other things, a lawyer, and
12 therefore entirely qualified to
13 opine on the law, particularly the
14 fact that the Film is hate speech;
15 at any rate, in light of the fact
16 that this is a lawsuit arising in
17 copyright, the hate speech issue
18 is not a matter requiring an
19 "ultimate legal conclusion" in
20 this case.

21 To the extent that Defendants
22 claim that El Fadl is not an
23 "expert," Plaintiffs note that
24 Defendants have made no
25 objection to the first six
26 paragraphs of El Fadl's
27 declaration, in which he sets forth
28 his expert qualifications on the
subjects of the law and culture of
the Middle East, Islamic law, and
terrorism at great length. Indeed,
it would be hard to imagine a
person of greater qualifications
than El Fadl to render expert
testimony in this case. As an
expert, he is entitled to render his
opinion on whether or not the
Film is hate speech, as well as the
likely incitement effect on
viewers of the film. FED. R. EVID.
702.

Defendants' Rule 403 objection
also is unmeritorious. The fact
that YouTube has acted
hypocritically in claiming not to
support hate speech, while
refusing to remove the Film in
light of universal agreement that
the Film is hate speech, may hurt
Defendants' case; it is, however,
entirely fair to admit into
evidence.

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2	31.	Paragraph 22, sixth sentence.	Hearsay not subject to any exception; lacks foundation; lacks personal knowledge; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
3			Defendants' "hearsay," "lacks foundation," and "lacks personal knowledge" objections to sentence 6 of paragraph 22 lack merit. Sentence 6 merely sets forth the fact that world leaders have condemned the Film and, as such, explains one of the bases for El Fadl's opinions. Experts such as El Fadl are entitled to base opinions such as these on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited throughout his declaration supporting his opinions. See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
4			Defendants' Rule 403 objection also is unmeritorious. The fact that YouTube has acted hypocritically in claiming not to support hate speech, while the universal condemnation of the Film may hurt Defendants' case, it is entirely fair to admit into evidence.
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18	32.	Paragraph 23, in its entirety.	Speculation; lacks foundation; vague and ambiguous; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
19			Defendants' "speculation" and "lacks foundation," objections to paragraph 23 lack merit. Paragraph 23 simply states El Fadl's opinion that a person who understood the likely consequences of appearing in the Film probably would not have done so, and that Ms. Garcia's public stand against the Film has, for now, protected her life against extremists in the Muslim world who wish to harm her. Experts such as El Fadl are entitled to base opinions such as these on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited
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1			throughout his declaration supporting his opinions. See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
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4			Defendants' "vague and ambiguous" objection also fails, as they do not explain at all how paragraph 23 is either vague or ambiguous; this essentially is a boilerplate objection and, therefore, improper. See, e.g., <u>Nesby v. City of Oakland</u> , 2007 U.S. Dist. LEXIS 22574, *4 (N.D. Cal. Mar. 19, 2007) (rejecting litigant's request to exclude evidence from declarations on grounds of "vagueness" where court found that the supposedly objectionable terms could be construed by looking at the dictionary); cf. <u>Bible v. Rio Props, Inc.</u> , 246 F.R.D. 614, 619 (C.D. Cal. 2007) (in context of discovery motion, ruling that conclusory, general or boilerplate objections such as "vague and ambiguous" are improper where they do not provide enough information as to allow court to ascertain objectionable nature of the material objected to).
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18			Defendants' Rule 403 objection also is unmeritorious. That a reasonable actor probably would not have volunteered to appear in a film that would result in a <i>fatwa</i> being put on her head may hurt Defendants' case, it is entirely fair to admit into evidence.
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23	33.	Paragraph 23, fifth sentence.	Defendants' "improper legal conclusion" objection fails. In the fifth sentence of paragraph 23, El Fadl opines that the <i>fact</i> of Ms. Garcia's filing this lawsuit may have temporarily ameliorated some threats to her safety. That is not a legal conclusion.
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1	34.	Paragraph 24, in its entirety.	Relevance; speculation; lacks foundation; improper expert opinion regarding how the film and Plaintiff are universally viewed; vague and ambiguous; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	<p>Defendants' "relevance" objection is not well taken. Every sentence in paragraph 24 pertains to Ms. Garcia, her involuntary insertion into a dangerous international controversy due to Defendants' actions, the existence of laws in various countries that criminalize activities such as appearing in the Film, and the worldwide reaction to the Film. Each of them relates directly to the matters at issue in Plaintiff's motion for an injunction.</p> <p>Defendants' "speculation" and "lacks foundation" objections to paragraph 24 also lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited throughout his declaration supporting his opinions, as well as his expertise in terrorism and national security issues. See <u>Heishman v. Ayers</u>, 621 F.3d 1030, 1042 (9th Cir. 2010, citing FED. R. EVID. 703).</p> <p>To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As an expert, he is entitled to render his opinion on the likely incitement effect on viewers of the film in the Muslim world. FED. R. EVID. 702.</p>
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1			Defendants' "vague and ambiguous" objection also fails, as they do not explain at all how paragraph 24 is either vague or ambiguous; this essentially is a boilerplate objection and, therefore, improper. See, e.g., <u>Nesby v. City of Oakland</u> , 2007 U.S. Dist. LEXIS 22574, *4 (N.D. Cal. Mar. 19, 2007) (rejecting litigant's request to exclude evidence from declarations on grounds of "vagueness" where court found that the supposedly objectionable terms could be construed by looking at the dictionary); cf. <u>Bible v. Rio Props, Inc.</u> , 246 F.R.D. 614, 619 (C.D. Cal. 2007) (in context of discovery motion, ruling that conclusory, general or boilerplate objections such as "vague and ambiguous" are improper where they do not provide enough information as to allow court to ascertain objectionable nature of the material objected to).
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16			Finally, Defendants' Rule 403 objection also is unmeritorious. That Ms. Garcia was involuntarily inserted into a dangerous international controversy (one which Defendants are perpetuating by refusing to remove the Film from YouTube) may hurt Defendants' case; however, it is entirely fair to admit into evidence.
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21	35.	Paragraph 24, third and fourth sentences.	Speculation; lacks foundation; improper legal conclusion; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
22			Defendants' "speculation" and "lacks foundation" objections to the third and fourth sentences of paragraph 24 lack merit. Experts such as El Fadi are entitled to base their opinions on any materials reasonably relied on by experts in that field, including hearsay; here, he relies on the many materials cited throughout his declaration supporting his opinions, as well as his demonstrated legal expertise.
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1			See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
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3			Defendants' "improper legal conclusion" objection is also not well taken. El Fadl is, among other things, a lawyer, and therefore entirely qualified to note the existence of anti-blasphemy laws and the manner in which they may be enforced. At any rate, in light of the fact that this is a lawsuit arising in copyright, the British blasphemy issue is not a matter requiring an "ultimate legal conclusion" in this case.
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10			Finally, Defendants' Rule 403 objection also is unmeritorious. That Ms. Garcia may face additional imminent damage (due to Defendants' refusal to remove the Film from YouTube) may hurt Defendants' case; however, it is entirely fair to admit into evidence.
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15	36.	Paragraph 25, second and third sentences.	Defendants' "speculation" and "lacks foundation" objections to the second and third sentences of paragraph 25 both lack merit. Experts such as El Fadl are entitled to base their opinions on any materials reasonably relied on by experts in that field; here, he relies on his personal observation of the Film (admissible under FED. R. EVID. 602), the various materials referenced throughout his declaration, and his demonstrated expertise in the culture and law of the Middle East, Islamic law, and terrorism. See <u>Heishman v. Ayers</u> , 621 F.3d 1030, 1042 (9 th Cir. 2010, citing FED. R. EVID. 703).
16		Speculation; lacks foundation; improper expert testimony regarding the "heart" of the work and the cause of outrage in the world; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	
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27			To the extent that Defendants claim that El Fadl is not an "expert," Plaintiffs note that Defendants have made no
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objection to the first six paragraphs of El Fadl's declaration, in which he sets forth his expert qualifications on the subjects of the law and culture of the Middle East, Islamic law, and terrorism at great length. Indeed, it would be hard to imagine a person of greater qualifications than El Fadl to render expert testimony in this case. As a viewer of the Film, he is well able to testify as to his personal observation of the Film's message (see FED. R. EVID. 602); as an expert, he is entitled to render his opinion on the likely incitement effect on viewers of the film in the Muslim world. FED. R. EVID. 702.

Finally, Defendants' Rule 403 objection also is unmeritorious. That Ms. Garcia may be in more danger than other actors in the Film due to the fact that she was made to appear to be the person accusing Mohammed of being a child molester may hurt Defendants' argument that she is not in imminent enough danger to deserve the protection of an injunction; however, it is entirely fair to admit into evidence.

VI. Defendants' Objections to the Declaration of M. Cris Armenta

No.	Material Objected To	Ground(s) for Objection	Plaintiff's Response
1.	Paragraph 2, in its entirety.	Relevance; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	Defendants' "relevance" argument should fail. Ms. Armenta's testimony of her personal experiences at the Los Angeles Superior Court are directly relevant to the issue of whether Ms. Garcia (and those

1			affiliated with her) is in imminent danger for her life and safety.
2			Defendants' Rule 403 objection also is unmeritorious. The
3			serious danger that Ms. Garcia is in, as evaluated by law
4			enforcement professionals, may hurt Defendants' argument that
5			she is not in imminent enough danger to deserve the protection
6			of an injunction; however, it is entirely fair to admit into
7			evidence.
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9	2.	Paragraph 2, fifth, sixth, seventh and eighth sentences.	Ms. Armenta's relation of her conversation with law enforcement professionals at the Los Angeles Superior Court is not hearsay because it is not offered for the truth of the matter asserted (FED. R. EVID. 801(c)(2)); rather, it is offered to show the effect on the listener. Here, the effect on Ms. Armenta (and Ms. Garcia) was to take numerous security measures and warn local law enforcement authorities of threats to her safety and to the safety of Ms. Garcia. Accordingly, it is admissible.
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18	3.	Paragraph 3, in its entirety.	Defendants' "relevance" argument should fail. Ms. Armenta's testimony of defense counsel's decision to "blame the victim" rather than to take any responsibility for their own actions raises serious issues pertaining to Defendants' culpability. Moreover, defense counsel's query as to whether Ms. Garcia had signed a release related to her dramatic performance is a legal issue at the heart of Ms. Garcia's request for an injunction. Accordingly, it is relevant.
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27			The conversations with counsel for YouTube, and Mr. Alger's and Ms. Armenta's statements,
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1			are not hearsay under Federal Rule of Evidence 801(d), which states that prior statements of the declarant-witness or of an opposing party are not hearsay.
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4	4.	Paragraph 3, second and third sentences.	Speculation; lacks foundation.
5			Defendants' "speculation" and "lacks foundation" objections fail; the second and third sentences of paragraph 3 simply relate the details of a conversation between counsel, a conversation in which Ms. Armenta personally participated.
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9	5.	Paragraph 4, in its entirety.	Relevance; hearsay not subject to any exception; misrepresents Defendants' position.
10			Defendants' "relevance" argument should fail. Ms. Armenta's testimony pertaining to Ms. Garcia's multiple attempts to use YouTube's published procedures to obtain removal of the Film raises serious issues pertaining to Defendants' culpability for copyright infringement and Ms. Garcia's right to have the Film taken down. This issue is at the heart of Ms. Garcia's request for an injunction. Accordingly, it is relevant.
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17			The October 2, 2012, conversation between Ms. Armenta and defense counsel is not hearsay under Federal Rule of Evidence 801(d), which states that prior statements of the declarant-witness or of an opposing party are not hearsay.
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22			Defendants' objection that paragraph 4 "misrepresents" their position is a matter that goes to the weight of the evidence, not its admissibility.
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25	6.	Paragraph 5, in its entirety.	Relevance; probative value outweighed by unfair prejudice (Fed. R. Evid. 403);
26			Defendants' "relevance" argument should fail. Ms. Armenta's testimony pertaining to Defendants' refusal to believe that Ms. Garcia never signed a release of the copyright to her
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1		misrepresents Defendants' position.	dramatic performance raises serious issues pertaining to Defendants' culpability for copyright infringement and Ms. Garcia's right to have the Film taken down. This issue is at the heart of Ms. Garcia's request for an injunction. Accordingly, it is relevant.
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6			Defendants' Rule 403 objection also is unmeritorious. The facts set forth in paragraph 5 indicate that Defendants have been aware for a very long time that Ms. Garcia never signed away her rights, and therefore was entitled to have the Film taken down.
7			While this fact may hurt Defendants' case, it is entirely fair to admit into evidence.
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9			Defendants' objection that paragraph 5 "misrepresents" their position is a matter that goes to the weight of the evidence, not its admissibility.
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15	7.	Paragraph 6, second sentence.	Defendants' "relevance" argument should fail. Ms. Armenta's testimony pertaining to Defendants' belated claim that the Film is a "joint work" raises serious issues pertaining to Defendants' culpability for copyright infringement and Ms. Garcia's right to have the Film taken down. This issue is at the heart of Ms. Garcia's request for an injunction. Accordingly, it is relevant.
16		Relevance; hearsay not subject to any exception; misrepresents Defendants' position	
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23			The October 4, 2012, conversation between Ms. Armenta and defense counsel is not hearsay under Federal Rule of Evidence 801(d), which states that prior statements of the declarant-witness or of an opposing party are not hearsay.
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27			Defendants' objection that
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1			paragraph 6 "misrepresents" their position is a matter that goes to the weight of the evidence, not its admissibility.
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3	8.	Paragraph 8, in its entirety, and Exhibit B.	Relevance
4			Defendants' "relevance" argument should fail. Defendant YouTube's stated position that it will remove hate speech from its Website, which stands in stark contrast to its refusal to remove the Film even after being informed that it was hate speech, raises serious issues pertaining to Ms. Garcia's right to have the Film taken down. This issue is at the heart of Ms. Garcia's request for an injunction. Accordingly, it is relevant.
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11	9.	Paragraph 9, in its entirety, and Exhibit C.	Hearsay not subject to any exception.
12			Paragraph 9 consists of a statement by Defendant Google's Chairman, Eric Schmidt, discussing the Film. His statement is admissible as an admission of a party opponent pursuant to Federal Rule of Evidence 801(d)(2)(A)-(D).
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16	10.	Paragraph 10, in its entirety.	Speculation; lacks foundation; relevance; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).
17			The purchase price between Google and YouTube is a matter that has been admitted numerous times by the Defendants and is even contained in the Second Circuit opinion between these Defendants and Viacom International. Plaintiff has provided the Court with a copy of this opinion. See Declaration of M. Cris Armenta, Ex. D at Page 12.
18			Defendants' "relevance" argument should fail. Defendant YouTube's acknowledgement, authenticated by counsel in a case before the Second Circuit, that it would lose a great deal of money if it removed copyrighted content from its site explains why Defendants refuse to remove the Film (given the tens of millions
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1			of views it has generated) even in light of Ms. Garcia's showing that she has a copyright in her dramatic performance and is entitled to have the Film taken down. This issue is at the heart of Ms. Garcia's request for an injunction. It also shows that, at worst, any "harm" to the Defendants by removing the content is merely monetary. Accordingly, it is relevant.
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7			Defendants' Rule 403 objection also is unmeritorious. The facts set forth in paragraph 10 indicate that despite the fact that Defendants have been aware for a very long time that Ms. Garcia is entitled to have the Film taken down, their refusal to do so is likely motivated by greed. While this fact may hurt Defendants' case, it is entirely fair to admit into evidence.
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14	11.	Paragraph 10, second, third, and fourth sentences and Exhibit D.	Defendants' "relevance" argument should fail. Defendant YouTube's acknowledgement, authenticated by counsel in a case before the Second Circuit, that it would lose a great deal of money if it removed copyrighted content from its site explains why Defendants refuse to remove the Film even in light of Ms. Garcia's showing that she has a copyright in her dramatic performance and is entitled to have the Film taken down. This issue is at the heart of Ms. Garcia's request for an injunction. Accordingly, it is relevant.
15		Relevance; hearsay not subject to any exception; probative value outweighed by unfair prejudice (Fed. R. Evid. 403).	
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24			Sentences 2-4 discuss admissions of YouTube's management team and founders in another case. Those statements are admissible as admissions of a party opponent pursuant to Federal Rule of Evidence 801(d)(2)(A)-(D); they are not hearsay.
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1			Defendants' Rule 403 objection also is unmeritorious. The facts set forth in paragraph 10 indicate that despite the fact that
2			Defendants have been aware for a very long time that Ms. Garcia is entitled to have the Film taken down, their refusal to do so is likely motivated by greed. While this fact may hurt Defendants' case, it is entirely fair to admit into evidence.
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8	12.	Paragraph 11, in its entirety.	Relevance.
9			Defendants' "relevance" argument should fail. Defendants have argued that the rights to the Film lie with the filmmaker: in other words, Defendant Youssef (a/k/a Bacile, a/k/a Nakoula). There is no other individual or entity of which Plaintiff is aware (or apparently of which Defendants are aware, as they have not mentioned any particular candidates) who own the copyright, under Defendants' theory of the case. Paragraph 11 demonstrates that Defendant Youssef (a/k/a Bacile, a/k/a Bakoula) has actually disavowed copyright ownership. Given that Plaintiff is aware of no other individual or entity claiming a copyright interest in the Film, Defendant Youssef's statements are entirely relevant to rebut Defendants' legal argument that Ms. Garcia, as a supporting actor, has no rights in her dramatic performance.
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22	13.	Paragraph 11, third, fourth and fifth sentences.	Hearsay not subject to any exception.
23			Sentences 3-5 of Paragraph 11 relate a conversation between Ms. Armenta and counsel for Defendant Youssef (a/k/a Bacile, a/k/a Bakoula). The content of that conversation is not hearsay under Federal Rule of Evidence 801(d), which states that prior statements of the declarant-witness or of an opposing party are not hearsay.
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VII. Defendants' Objections to the Declaration of David Hardy

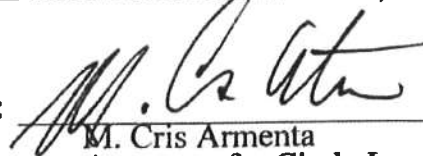
Defendants object to Mr. Hardy's declaration in its entirety, including exhibits, on relevance grounds, asserting that the DMCA is an affirmative defense to monetary relief against a service provider and therefore not pertinent to this motion, which seeks an injunction. Notably, it is the Defendants themselves who have claimed that they are entitled to a "safe harbor" defense under the DMCA. (See Declaration of M. Cris Armenta at ¶ 2.)

Defendants further object to the declaration and exhibits, in their entirety, on hearsay grounds. Defendants are entirely wrong. Mr. Hardy's declaration consists almost entirely of relating his communications with various representatives of Defendant YouTube. Those are not hearsay under Federal Rule of Evidence 801(d), which states that prior statements of the declarant-witness or of an opposing party are not hearsay.

Dated: November 5, 2012

THE ARMENTA LAW FIRM, A.P.C.

By:


M. Cris Armenta
Attorneys for Cindy Lee Garcia

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 11900 Olympic Boulevard, Suite 730, Los Angeles, California 90064.

On November 5, 2012 I served the following document(s) described as:


- (1) **REPLY MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION AND ORDER OF IMPOUNDMENT; DECLARATION OF M. CRIS ARMENTA IN SUPPORT THEREOF (filed separately);**
- (2) **PLAINTIFF'S RESPONSE TO OBJECTIONS BY GOOGLE, INC. AND YOUTUBE LLC TO EVIDENCE SUBMITTED IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND ORDER OF IMPOUNDMENT (filed separately);**
- (3) **PLAINTIFF'S OBJECTIONS TO EVIDENCE SUBMITTED BY GOOGLE INC., AND YOUTUBE, LLC. IN OPPOSITION BRIEF TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND ORDER OF IMPOUNDMENT (filed separately);**
- (4) **[PROPOSED] ORDER SUSTAINING PLAINTIFF'S OBJECTIONS TO EVIDENCE SUBMITTED BY GOOGLE, INC., AND YOUTUBE LLC IN OPPOSITION BRIEF TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND AN ORDER OF IMPOUNDMENT (lodged separately)**

on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**Timothy L. Alger
Perkins Coie LLP
3150 Porter Drive
Palo Alto, CA 94304-1212**

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, California, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

Executed on November 5, 2012 in Los Angeles, California


Heather Rowland

1 Timothy L. Alger (SBN 160303)
2 TALger@perkinscoie.com
3 PERKINS COIE LLP
3150 Porter Drive
4 Palo Alto, CA 94304-1212
Telephone: 650.838.4300
Facsimile: 650.838.4350

5 Sunita Bali (SBN 274108)
6 SBali@perkinscoie.com
7 PERKINS COIE LLP
1888 Century Park E., Suite 1700
8 Los Angeles, CA 90067-1721
Telephone: 310.788.9900
Facsimile: 310.788.3399

9 Attorneys for Defendant
10 Google Inc. and YouTube, LLC

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 CINDY LEE GARCIA, an individual,

15 Plaintiff,

16 v.

17 NAKOULA BASSELEY NAKOULA,
an individual also known as SAM
18 BACILE, MARK BASSELEY
YOUSSEF, ABANOB BASSELEY
19 NAKOULA, MATTHEW NEKOLA,
AHMED HAMDY, AMAL NADA,
20 DANIEL K. CARESMAN, KRITBAG
DIFRAT, SOBHI BUSHRA, ROBERT
21 BACILY, NICOLA BACILY,
THOMAS J. TANAS, ERWIN
22 SALAMEH, YOUSSEFF M.
BASSELEY, and/or MALID
23 AHLAWI; GOOGLE, INC., a
Delaware Corporation; YOUTUBE,
24 LLC, a California limited liability
company, and DOES 1 through 10,
25 inclusive,

26 Defendants.
27
28

Case No. CV-12-8315-MWF (VBKx)

Assigned to the Honorable Michael W.
Fitzgerald

DECLARATION OF MARK
BASSELEY YOUSSEF

[Submitted in Opposition to Plaintiff's
Motion for Preliminary Injunction]

Date: December 3, 2012
Time: 10:00 a.m.
Courtroom: 1600

1 I, Mark Basseley Youssef, hereby declare as follows:

2 1. I have personal knowledge of the facts stated herein and, if called
3 upon, could and would testify competently thereto under oath.

4 2. Attached hereto as **Exhibit 1** is a true, correct, and complete copy of
5 the Personal Release and Cast Deal Memo signed by Cindy Lee Garcia in
6 connection with the film Desert Warriors. I personally provided this document to
7 Ms. Garcia on August 9, 2011 and she filled it out and signed it in my presence on
8 that day before commencing work on the film. The only writing on this document
9 that is not that of Ms. Garcia is "Matthew Metta," next to Sam Bessi, on pages 1
10 and 3 of the document. That writing is mine.

11 I declare under penalty of perjury under the laws of the United States of
12 America that the foregoing is true and correct.

13 Executed this 27 day of November, 2012, at Los Angeles, California.

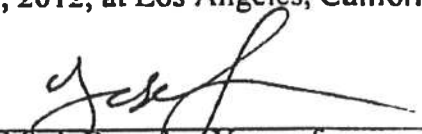
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17 Mark Basseley Youssef
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EXHIBIT "A"

ER793

PERSONAL RELEASE

Desert Warriors
Production Company
Address 1040 Hamilton rd.
Durante Ca. 91010

s matthew mttu.

Date 8/9/11

Ladies and Gentlemen:

I, the undersigned, hereby grant permission to Sam Bessi (matthew mttu)
("Producer") to photograph me and to record my voice, performances, poses, acts, plays and appearances, and use
my picture, photograph, silhouette and other reproductions of my physical likeness and sound as part of the _____
One Roman tentatively entitled _____
(the "Picture") and the unlimited distribution, advertising,
promotion, exhibition and exploitation of the Picture by any method or device now known or hereafter devised in which
the same may be used, and/or incorporated and/or exhibited and/or exploited.

I agree that I will not assert or maintain against you, your successors, assigns and licensees, any claim, action, suit or
demand of any kind or nature whatsoever, including but not limited to, those grounded upon invasion of privacy, rights
of publicity or other civil rights, or for any other reason in connection with your authorized use of my physical likeness
and sound in the Picture as herein provided. I hereby release you, your successors, assigns and licensees, and each
of them, from and against any and all claims, liabilities, demands, actions, causes of action(s), costs and expenses
whatsoever, at law or in equity, known or unknown, anticipated or unanticipated, which I ever had, now have, or may,
or shall hereafter have by reason, matter, cause or thing arising out of your use as herein provided.

I affirm that neither I, nor anyone acting for me, gave or agreed to give anything of value to any of your employees or
representative of any television network, motion picture studio or production entity for arranging my appearance
on the Picture.

The undersigned understands that they will not be compensated for their appearance in the recording.

I have read the foregoing and fully understand the meaning and effect thereof and, intending to be legally bound, I
have signed this release.

Dated 8/9/11

Cristy Garcia
Signature

If a minor, Guardian's Signature

Please Print Name

Address

AGREED AND ACCEPTED TO

By _____ **REDACTED**
Phone Number _____

Release #1

Cast Deal Memo

This memo outlines terms of the agreement between ~~Michael~~ ^{H.M.} ~~Productions LLC~~ and Cindy Garcia (hereinafter "Producer") related to the production of ~~Michael~~ (hereinafter "Motion Picture.")

1. Services:

Cindy Garcia agrees to perform the services outlined in Appendix A.

2. Compensation:

Subject to the rest of the terms of this agreement, and upon satisfactory completion of the services outlined in Appendix A, Producer agrees to compensate Cindy Garcia at the rate and time designated in Appendix B.

3. Employment Status: [Independent Contractor]

[Independent Contractor: The parties agree that NA is an independent contractor, who is not required to work exclusively for Producer now or in the future, and who, as a professional, is expected to complete the assignment without supervision or training. No fringe benefits or overtime compensation will be provided and the contractor is solely responsible for all income, self-employment and other taxes due upon this income received in conjunction with the services rendered under this agreement. The contractor is not entitled to collect unemployment compensation under this agreement.]

4. Assignment of Rights

[CG assigns to producer all rights necessary for the development, production and exploitation of the Motion Picture, whether denominated copyrights, performance rights, or publicity rights, including the right to reasonable use of his/her name and likeness in conjunction with the development, production and exploitation of the Motion Picture, and waives any right to sue Producer over such use.]

[CG warrants to Producer that all

writing submitted for the Motion Picture is his own original work. The parties agree the script and all revisions of the script of the film are "works made for hire" as defined under article 101 of Title 17 of the U.S. Code. If for any reason the script should be determined to not be a "work made for hire," CG assigns all rights he may have to the work under U.S. and International copyright law to Producer.

5. Credits:

Producer agrees to provide the following credits:

Sam Bessi (matthew matthe)
8/9/11
Date

Social Security Number

REDACTED

Address

Producer

Date

Appendix A:

[Describe the services to be performed in plain English including dates and times required to be available and any equipment to be provided.]

[Examples: actor playing (role); dates; times (or "as needed"); related responsibilities. Writer; responsibilities including revisions/turn around times between dates; Stunts/effects...]

Appendix B:

Describe Compensation Rate

PROOF OF SERVICE

I, Pamela Villeral, declare,

I am employed in the City of Los Angeles, County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 1888 Century Park East, Suite 1700, Los Angeles, California 90067-1721. On the date signed below, I served the documents named below on the parties in this action as follows:

DECLARATION OF MARK BASSELEY YOUSSEF

Upon the parties named below as follows: (See attached service list.)



(BY MAIL) I caused the above referenced document(s) to be placed in an envelope, with postage thereon fully prepaid, and placed in the United States mail at Los Angeles, California. I am readily familiar with the practice of the firm for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.



(FEDERAL) I declare under penalty of perjury under the laws of the United States of America the above is true and correct.

Executed on **November 28, 2012**, at Los Angeles, California.



Pamela Villeral

SERVICE LIST

Defendant

Nakoula B. Nakoula aka Mark Basseley Youssef
Metropolitan Detention Center.
Inmate # 56329-112.
180 N. Los Angeles St.
Los Angeles, CA 90012

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1 Timothy L. Alger (SBN 160303)
2 TAlger@perkinscoie.com
3 PERKINS COIE LLP
4 3150 Porter Drive
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6 Telephone: 650.838.4300
7 Facsimile: 650.838.4350

8 Sunita Bali (SBN 274108)
9 SBali@perkinscoie.com
10 PERKINS COIE LLP
11 1888 Century Park E., Suite 1700
12 Los Angeles, CA 90067-1721
13 Telephone: 310.788.9900
14 Facsimile: 310.788.3399

15 Attorneys for Defendants
16 Google Inc. and YouTube, LLC

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA

19 CINDY LEE GARCIA, an individual,
20 Plaintiff,
21 v.

22 NAKOULA BASSELEY NAKOULA,
23 an individual also known as SAM
24 BACILE, MARK BASSELEY
25 YOUSSEF, ABANOB BASSELEY
26 NAKOULA, MATTHEW NEKOLA,
27 AHMED HAMDY, AMAL NADA,
28 DANIEL K. CARESMAN, KRITBAG
DIFRAT, SOBHI BUSHRA, ROBERT
BACILY, NICOLA BACILY,
THOMAS J. TANAS, ERWIN
SALAMEH, YOUSSEFF M.
BASSELEY, and/or MALID
AHLAWI; GOOGLE, INC., a
Delaware Corporation; YOUTUBE,
LLC, a California limited liability
company, and DOES 1 through 10,
inclusive,

Defendants.

Case No. CV-12-8315-MWF (VBKx)

Assigned to the Honorable Michael W.
Fitzgerald

DECLARATION OF TIMOTHY L.
ALGER

[Submitted in Opposition to Plaintiff's
Motion for Preliminary Injunction]

Date: December 3, 2012
Time: 10:00 a.m.
Courtroom: 1600

DECLARATION OF TIMOTHY L. ALGER

I, Timothy L. Alger, hereby declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California and this Court. I am a partner at Perkins Coie LLP, and lead counsel in this action for defendants Google Inc. and YouTube, LLC (collectively, the "YouTube Defendants"). I have personal knowledge of the facts stated herein and, if called upon, could and would testify competently thereto under oath.

2. Submitted concurrently with this declaration is the Declaration of Mark Basseley Youssef, with a copy of the Personal Release and Cast Deal Memo ("Release") completed and signed by Plaintiff Cindy Lee Garcia in connection with the film Desert Warriors attached as Exhibit 1. The Release has been redacted by my office so the public court file will not contain Ms. Garcia's telephone number and Social Security number.

3. The original Release is in my possession, with the permission of Mr. Youssef.

4. This declaration is intended to provide the Court with additional, potentially dispositive, evidence relating to Plaintiff's Motion for Preliminary Injunction, and an explanation as to why this evidence is being submitted at this time.

5. On November 16, 2012, at my request, Mr. Youssef's criminal attorney, Steven Seiden, obtained from Mr. Youssef's family a copy of the Release, and he immediately provided it to me. I then did two things: First, I confirmed that the telephone number on the Release was that of Ms. Garcia, which was easily accomplished because Ms. Garcia includes her phone number in her public Facebook profile. Second, I asked an investigator to check public records to determine the name of the holder of the Social Security number on the release. He informed me that the holder of that number is Cindy Lee Garcia.

1 6. After receiving this information, I sent a copy of the Release by email
2 on November 18, 2012 to Cris Armenta, Ms. Garcia's attorney, and suggested that
3 her client voluntarily dismiss this action. After not hearing anything from Ms.
4 Armenta for several days, I called and left a phone message for her making the
5 same suggestion on November 21, 2012.

6 7. Ms. Armenta responded to my communications by email on Monday,
7 November 26, 2012. On that day, and in several subsequent emails, Ms. Armenta
8 has expressed doubt that the Release is genuine.

9 8. In light of the communications from Ms. Armenta, I made
10 arrangements to visit Mr. Youssef, and I did so with Mr. Seiden on Tuesday
11 afternoon, November 27, 2012 at the Metropolitan Detention Center ("MDC") in
12 downtown Los Angeles. Mr. Youssef is in the Special Housing Unit at MDC,
13 segregated from the main population and unable to visit with family or friends.
14 During our visit, Mr. Youssef reviewed the Release (in an unredacted form)
15 attached as Exhibit 1, and executed the Declaration.

16 9. The Release is dated August 9, 2011. The document: (1) grants to
17 "Sam Bessi," a name Mr. Youssef has used in the past, and a production entity
18 called "Matthew Metta," the right to photograph and record Ms. Garcia; (2) releases
19 all claims for invasion of privacy, right of publicity; and (3) assigns to "M.M." "all
20 rights necessary for the development, production and exploitation of the Motion
21 Picture, whether denominated copyrights, performance rights, or publicity rights
22" (See Youssef Decl., Exh. 1.)

23 10. During our visit, Mr. Youssef provided to me additional information
24 that is relevant to the pending Motion. Given the restrictions in the Special
25 Housing Unit at MDC, we were unable to prepare a new declaration during our
26 visit, but Mr. Youssef said he would testify to the following: That Ms. Garcia
27 worked for two hours on a single day, filming her brief appearances in the movie,
28

1 and was paid \$75.00. Later, he said, Ms. Garcia was called back and worked about
2 one additional hour, re-recording her lines because the quality of the sound captured
3 during the filming was poor, and she was paid an additional \$100.00.

4 11. Mr. Youssef said that while other people assisted with the direction
5 and production of the film, it was his creation, and he retains control over the film.
6 He told me that his son uploaded both the English language and Arabic versions of
7 the trailer for the film, now entitled Innocence of Muslims, to YouTube at his
8 request. Mr. Youssef said he believes in the message contained in the film and he
9 does not want the trailer to be removed from YouTube.

10 12. On the night of Tuesday, November 27, 2012, after my visit at MDC
11 with Mr. Youssef, I met with Mr. Youssef's son in southern Los Angeles County.
12 He brought with him a binder, about four inches thick, containing contracts relating
13 to the film, including releases by other actors identical in form to that which was
14 signed by Ms. Garcia. He provided me with the original Release executed by Ms.
15 Garcia, which I promised to return following the conclusion of these proceedings.

16 13. I would also like to take this opportunity to correct factual inaccuracies
17 in declarations filed by Plaintiff. First, in the Declaration of M. Cris Armenta [Dkt.
18 No. 14-3], paragraph 6, Plaintiff's counsel asserts that she was told during a meet-
19 and-confer on October 4, 2012 that the YouTube defendants considered the
20 Innocence of Muslims film to be a "joint work" under the Copyright Act. Ms.
21 Armenta repeats this assertion (with a date of October 5, 2012) in a supplemental
22 declaration filed in conjunction with Plaintiff's Reply Brief [Dkt. No. 27], at
23 paragraph 8. These statements are incorrect. I informed Ms. Armenta that it was
24 YouTube's position that Ms. Garcia had no copyright interest in the film at all, and
25 even if Ms. Garcia asserted that she was a joint author, her claims against the
26 YouTube Defendants failed because the film was posted on YouTube by Mr.
27 Youssef, who had the right under Copyright Act to do so, without seeking Ms.
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1 Garcia's consent.

2 14. At various points in Plaintiff's briefing, in the Armenta Declaration [Dkt.
3 No. 14-3 at ¶ 7], and throughout the David Hardy Declaration [Dkt. No. 14-2],
4 Plaintiff suggests that there was ambiguity, uncertainty, or "discussions" between
5 the YouTube Defendants and Plaintiff's counsel or representatives regarding the
6 possibility that the film would be removed from the YouTube service. This is also
7 incorrect. I made clear to Ms. Armenta, starting with our first telephone
8 communications immediately after I was retained on September 18, 2012, when she
9 informed me of Plaintiff's plan to file an ex parte application in Superior Court for
10 a temporary restraining order, that the YouTube Defendants would not remove the
11 film at Plaintiff's demand.

12 15. Finally, Ms. Armenta suggests in paragraphs 8 and 9 of her supplemental
13 declaration that she delayed filing an application for temporary restraining order
14 because I would not be available between October 11 and 16, 2012. This is also
15 incorrect. Ms. Armenta first informed me that she intended to seek a temporary
16 restraining order ex parte when this action was filed in federal court on September
17 26, 2012. I made sure during the following two weeks to be available for any
18 briefing and/or court appearances relating to such an application. We met-and-
19 conferred about Plaintiff's application on October 4, 2012, on short notice. As time
20 passed, without any filing by Plaintiff, I ultimately inquired of Ms. Armenta about
21 her timing, and suggested by email on October 10, 2012 that Plaintiff file a noticed
22 motion, which would seem to be more appropriate given that the film had been
23 publicly available at Youtube.com since July. I also informed her that I had a
24 commitment outside the country October 12 (Friday) to October 15 (Monday), and,
25 if necessary, I would seek an extension from the Court for any response if Plaintiff
26 filed an ex parte application during my absence. There is no basis for any
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1 contention by Plaintiff that she delayed seeking preliminary relief to accommodate
2 the YouTube Defendants.

3 I declare under penalty of perjury under the laws of the United States that the
4 foregoing is true and correct.

5 Executed this 28th day of November, 2012, at Palo Alto, California.

6
7
8 /s/ Timothy L. Alger
Timothy L. Alger

PROOF OF SERVICE

I, Pamela Villeral, declare,

I am employed in the City of Los Angeles, County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 1888 Century Park East, Suite 1700, Los Angeles, California 90067-1721. On the date signed below, I served the documents named below on the parties in this action as follows:

DECLARATION OF TIMOTHY L. ALGER

Upon the parties named below as follows: (See attached service list.)



(BY MAIL) I caused the above referenced document(s) to be placed in an envelope, with postage thereon fully prepaid, and placed in the United States mail at Los Angeles, California. I am readily familiar with the practice of the firm for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.



(FEDERAL) I declare under penalty of perjury under the laws of the United States of America the above is true and correct.

Executed on **November 28, 2012**, at Los Angeles, California.



Pamela Villeral

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SERVICE LIST

Defendant

Nakoula B. Nakoula aka Mark Basseley Youssef
Metropolitan Detention Center.
Inmate # 56329-112.
180 N. Los Angeles St.
Los Angeles, CA 90012

1 M. Cris Armenta (SBN 177403)
2 THE ARMENTA LAW FIRM APC
3 11900 W. Olympic Boulevard, Suite 730
4 Los Angeles, CA 90064
5 Tel: (310) 826-2826 x 108
6 Facsimile: (310) 826-5456
7 Email: cris@crisarmenta.com

8 Credence E. Sol (SBN 219784)
9 La Garenne
10 86300 Chauvigny
11 France
12 Telephone: 06 74 90 22 08
13 credence.sol@sol-law.com

14 Attorneys for Plaintiff
15 Cindy Lee Garcia

16 UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 CINDY LEE GARCIA, an
19 individual,

20 Plaintiff,

21 vs.

22 NAKOULA BASSELEY
23 NAKOULA, an individual also
24 known as SAM BACILE, MARK
25 BASSELEY YOUSSEF,
26 ABANOB BASSELEY
27 NAKOULA, MATTHEW
28 NEKOLA, AHMED HAMDY,
AMAL NADA, DANIEL K.
CARESMAN, KRITBAG
DIFRAT, SOBHI BUSHRA,
ROBERT BACILY, NICOLA
BACILY, THOMAS J. TANAS,
ERWIN SALAMEH, YOUSSEFF
M. BASSELEY, and/or MALID
AHLAWI; GOOGLE, INC., a
Delaware Corporation;
YOUTUBE, LLC, a California
limited liability company, and
DOES 1 through 10, inclusive.

Defendants.

Case No. CV12-8315-
MWF(VBKx)

**PLAINTIFF'S NOTICE OF
REQUEST UNDER CENTRAL
DISTRICT LOCAL RULE 7-8
TO CROSS-EXAMINE
DECLARANTS SUBMITTED
BY DEFENDANTS GOOGLE
INC. AND YOUTUBE LLC**

PLAINTIFF'S NOTICE OF REQUEST TO
CROSS- EXAMINE DECLARANTS
CV 12 8315 (VBKx)

ER807

Pursuant to Local Rule 7-8 of the Central District of California, Plaintiff Cindy Lee Garcia hereby requests that she be permitted to cross-examine Mark Basseley Youssef and Tim Alger. Their declarations were submitted to the Court on November 28, 2012 at 6:24 p.m. PST, five days before the scheduled hearing on December 3, 2012. Despite the lack of fairness to Plaintiff due to the delay of the Defendants, Plaintiff is willing to cross-examine both of these declarants on Monday, December 3, 2012. Since Mr. Alger will be present in Court, he will clearly be with the subpoena power of the Court. Since Mr. Youssef is residing four blocks away from the courthouse at the Metropolitan Detention Center and is in the custody of the Bureau of Prisons, he is also within the Court's grasp.

Plaintiff does not seek any further delay of this hearing and objects to any delay occasioned by the untimely filing of Defendants.

Pursuant to Local Rule 7-8, Plaintiff requests that the Court enter the order described therein. Since both declarants are within the Court's subpoena power, the Defendants may not object to the Court's order under this Rule.

Dated: November 29, 2012

THE ARMENTA LAW FIRM, A.P.C.

By:



M. Cris Armenta
Attorneys for Plaintiff
Cindy Lee Garcia

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 11900 Olympic Boulevard, Suite 730, Los Angeles, California 90064.

On November 29, 2012 I served the following document(s) described as:

**PLAINTIFF'S NOTICE OF REQUEST UNDER CENTRAL DISTRICT
LOCAL RULE 7-8 TO CROSS-EXAMINE DECLARANTS SUBMITTED BY
DEFENDANTS GOOGLE INC. AND YOUTUBE LLC**

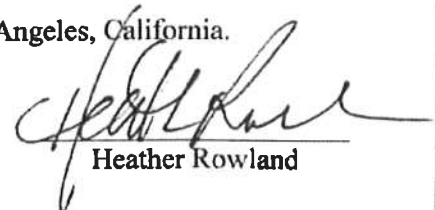
on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**Timothy L. Alger
Perkins Coie LLP
3150 Porter Drive
Palo Alto, CA 94304-1212
(by mail and courtesy email)**

**Nakoula B. Nakoula aka
Mark Basseley Youssef
Metropolitan Detention Center
Inmate #56329-112
180 N. Los Angeles St.
Los Angeles, CA 90012
(by mail only)**

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, California, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

Executed on November 29, 2012 in Los Angeles, California.


Heather Rowland

1 Timothy L. Alger (SBN 160303)
2 TALger@perkinscoie.com
3 PERKINS COIE LLP
3150 Porter Drive
4 Palo Alto, CA 94304-1212
Telephone: 650.838.4300
Facsimile: 650.838.4350

5 Sunita Bali (SBN 274108)
6 SBali@perkinscoie.com
7 PERKINS COIE LLP
1888 Century Park E., Suite 1700
8 Los Angeles, CA 90067-1721
Telephone: 310.788.9900
Facsimile: 310.788.3399

9 Attorneys for Defendant
10 Google Inc. and YouTube, LLC

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 CINDY LEE GARCIA, an individual,
15 Plaintiff,

16 v.

17 NAKOULA BASSELEY NAKOULA,
an individual also known as SAM
18 BACILE, MARK BASSELEY
YOUSSEF, ABANOB BASSELEY
19 NAKOULA, MATTHEW NEKOLA,
AHMED HAMDY, AMAL NADA,
20 DANIEL K. CARESMAN, KRITBAG
DIFRAT, SOBHI BUSHRA, ROBERT
21 BACILY, NICOLA BACILY,
THOMAS J. TANAS, ERWIN
22 SALAMEH, YOUSSEFF M.
BASSELEY, and/or MALID
23 AHLAWI; GOOGLE, INC., a
Delaware Corporation; YOUTUBE,
24 LLC, a California limited liability
company, and DOES 1 through 10,
25 inclusive,

26 Defendants.
27
28

Case No. CV-12-8315-MWF (VBKx)

Assigned to the Honorable Michael W.
Fitzgerald

OBJECTIONS OF GOOGLE INC.
AND YOUTUBE, LLC TO
PLAINTIFF'S NOTICE OF REQUEST
UNDER CENTRAL DISTRICT
LOCAL RULE 7-8 TO CROSS-
EXAMINE DECLARANTS

Date: December 3, 2012
Time: 10:00 a.m.
Courtroom: 1600

1 Defendants Google Inc. and YouTube, LLC (collectively the “YouTube
2 Defendants”) hereby object to Plaintiff Cindy Lee Garcia’s Notice of Request
3 Under Central District Local Rule 7-8 to Cross-Examine Declarants Submitted by
4 Defendants Google Inc. and YouTube, LLC. [Dkt. No. 35.]

5 I. ARGUMENT

6 A. Timothy L. Alger

7 There is no justification for cross-examination of Timothy L. Alger, the
8 YouTube Defendants’ lead attorney in this matter. Examining opposing counsel in
9 connection with pending litigation is disfavored. “The practice of forcing trial
10 counsel to testify as a witness . . . has long been discouraged, and recognized as
11 disrupting the adversarial nature of our judicial system.” *Shelton v. American*
12 *Motors Corp.*, 805 F.2d 1323, 1327 (8th Cir. 1986) (internal citations omitted)
13 (quoting *Hickman v. Taylor*, 329 U.S. 495, 513 (1947) (stating that such
14 examinations cause “the standards of the profession [to] suffer”)). Because of the
15 potential for abuse, the examination of an opponent’s attorney is permitted in rare
16 circumstances, and only after it is shown by the requesting party to be both proper
17 and necessary. *American Cas. Co. of Reading, Pa. v. Krieger*, 160 F.R.D. 582, 588
18 (S.D. Cal. 1995). “Courts have reached this conclusion even where it is clear that
19 the attorney is a witness to relevant, nonprivileged events and/or conversations.”
20 *Id.*

21 The Eighth Circuit articulated a test that has been used by courts throughout
22 the nation, including by courts within this Circuit, limiting depositions of opposing
23 counsel to those rare situations where: (1) no other means exist to obtain the
24 information, (2) the information sought is relevant and nonprivileged, and (3) the
25 information is crucial to the preparation of the case. *Shelton*, 805 F.2d at 1327; *see*
26 *also Doubleday v. Ruh*, 149 F.R.D. 601, 613 (E.D. Cal. 1993) (noting the frequency
27 with which this test is applied).
28

1 Plaintiff cannot meet these standards, and she does not even attempt to do so
2 in her Notice.

3 First, there are alternative ways to obtain the information in Mr. Alger's
4 declaration. Plaintiff does not identify what information she is seeking to obtain by
5 cross-examining Mr. Alger, but her counsel has stated, both in communications
6 with Mr. Alger and to various public media outlets, that Plaintiff challenges the
7 authenticity of the Personal Release and Cast Deal Memo ("Release") signed by
8 Plaintiff, in which she assigns "all rights necessary for the development, production
9 and exploitation of the Motion Picture, whether denominated copyrights,
10 performance rights, or publicity rights . . ." (Declaration of Timothy L. Alger [Dkt.
11 No. 34] ¶ 7.)

12 Any examination regarding the authenticity of the Release, however, is best
13 directed to Plaintiff herself, who appears to have signed the Release and included in
14 it her personal phone number and Social Security number, and to Defendant
15 Youssef or others who worked on the film and witnessed Plaintiff's signing of the
16 Release. Mr. Alger has no personal knowledge about the authenticity of the
17 Release. The primary purpose behind Mr. Alger's declaration was to explain why
18 the release was submitted to the Court at this time, and how it came into Mr.
19 Alger's possession. (Alger Decl. ¶ 4.)

20 Second, Plaintiff's failure to identify any information she hopes to obtain by
21 cross-examining Mr. Alger makes it impossible for the Court to make a finding that
22 it is "relevant and nonprivileged." Whenever opposing counsel in litigation is
23 subject to examination, there is a substantial risk that the questioning will cross into
24 privileged territory, imposing substantial burden on the litigants and the Court. As
25 the *Shelton* court observed:

26 Taking the deposition of opposing counsel not only
27 disrupts the adversarial system and lowers the standards
28 of the profession, but it also adds to the already
burdensome time and costs of litigation. It is not hard to

1 imagine additional pretrial delays to resolve work-product
 2 and attorney-client objections, as well as delays to resolve
 3 collateral issues raised by the attorney's testimony.
 4 Finally, the practice of deposing opposing counsel
 5 detracts from the quality of client representation. Counsel
 6 should be free to devote his or her time and efforts to
 7 preparing the client's case without fear of being
 8 interrogated by his or her opponent. Moreover, the
 9 'chilling effect' that such practice will have on the
 10 truthful communications from the client to the attorney is
 11 obvious.

12 *Shelton*, 805 F.3d at 1327.

13 Any questioning of Mr. Alger beyond the facts already stated under oath in
 14 his declaration will undoubtedly delve into subject matter protected by the work
 15 product doctrine and/or attorney client privilege, which are not the proper subject of
 16 cross-examination.

17 Third, Plaintiff has failed to establish that *any* information contained in Mr.
 18 Alger's declaration is crucial to the preparation of the case. Obtaining further detail
 19 through cross-examination about the timing of the submission to the Court, which
 20 was the primary purpose of Mr. Alger's declaration, is by no means crucial to
 21 Plaintiff's preparation of her case. Witness examination regarding the authenticity
 22 of the Release, which might, indeed, go to the heart of Plaintiff's case, should
 23 involve those who worked on the film, including Plaintiff, Mr. Youssef, and
 24 others—not the YouTube Defendants' counsel.

25 **B. Mark Basseley Youssef**

26 The YouTube Defendants take no position regarding Plaintiff's request to
 27 cross-examine Mark Basseley Youssef. However, as explained in Mr. Alger's
 28 declaration, Mr. Youssef is currently detained at the Metropolitan Detention
 Facility ("MDC") in downtown Los Angeles. He is in the Special Housing Unit at
 MDC and is segregated from the main population. Due to Mr. Youssef's detention,
 he is not "reasonably available" to the YouTube Defendants, though he may be
 otherwise available to the Court. *See* L.R. 7-8. Notwithstanding Mr. Youssef's
 availability, the Court should consider his declaration and the Release attached as

1 Exhibit 1, as it is material to the Court's consideration of Plaintiff's Motion for
2 Preliminary Injunction.
3

4 **II. CONCLUSION**

5 For the foregoing reasons, Plaintiff's request for cross-examination should be
6 denied.
7

8 DATED: November 30, 2012

PERKINS COIE LLP

9 By: /s/ Timothy L. Alger
10 Timothy L. Alger

11 Attorneys for Defendants
12 Google Inc. and YouTube, LLC
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PROOF OF SERVICE

I, Pamela Villeral, declare,

I am employed in the City of Los Angeles, County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 1888 Century Park East, Suite 1700, Los Angeles, California 90067-1721. On the date signed below, I served the documents named below on the parties in this action as follows:

**OBJECTIONS OF GOOGLE INC. AND YOUTUBE, LLC TO
PLAINTIFF'S NOTICE OF REQUEST UNDER CENTRAL
DISTRICT LOCAL RULE 7-8 TO CROSS-EXAMINE
DECLARANTS**

Upon the parties named below as follows: (See attached service list.)



(BY MAIL) I caused the above referenced document(s) to be placed in an envelope, with postage thereon fully prepaid, and placed in the United States mail at Los Angeles, California. I am readily familiar with the practice of the firm for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.



(FEDERAL) I declare under penalty of perjury under the laws of the United States of America the above it true and correct.

Executed on **November 30, 2012**, at Los Angeles, California.



Pamela Villeral

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SERVICE LIST

Defendant

Nakoula B. Nakoula aka Mark Basseley Youssef
Metropolitan Detention Center.
Inmate # 56329-112.
180 N. Los Angeles St.
Los Angeles, CA 90012.

1 M. Cris Armenta (SBN 177403)
2 THE ARMENTA LAW FIRM APC
3 11900 W. Olympic Boulevard, Suite 730
4 Los Angeles, CA 90064
5 Tel: (310) 826-2826 x 108
6 Facsimile: (310) 826-5456
7 Email: cris@crisarmenta.com

8 Credence E. Sol (SBN 219784)
9 La Garenne
10 86300 Chauvigny
11 France
12 Tel: 06 74 90 22 08
13 Email: credence.sol@sol-law.com

14 Attorneys for Plaintiff
15 Cindy Lee Garcia

16 UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 CINDY LEE GARCIA, an
19 individual,

20 Plaintiff,

21 vs.

22 NAKOULA BASSELEY
23 NAKOULA, an individual also
24 known as SAM BACILE, MARK
25 BASSELEY YOUSSEF,
26 ABANOB BASSELEY
27 NAKOULA, MATTHEW
28 NEKOLA, AHMED HAMDY,
AMAL NADA, DANIEL K.
CARESMAN, KRITBAG
DIFRAT, SOBHI BUSHRA,
ROBERT BACILY, NICOLA
BACILY, THOMAS J. TANAS,
ERWIN SALAMEH, YOUSSEF
M. BASSELEY, and/or MALID
AHLAWI; GOOGLE, INC., a
Delaware Corporation;
YOUTUBE, LLC, a California
limited liability company, and
DOES 1 through 10, inclusive.

Defendants.

Case No. CV12-8315-MWF(VBKx)

**PLAINTIFF'S OBJECTION TO
AND REQUEST TO STRIKE
DECLARATIONS OF TIM
ALGER AND MARK BASSELEY
YOUSSEF; DECLARATIONS OF
M. CRIS ARMENTA, GAYLORD
FLYNN, CINDY LEE GARCIA
AND JIM BLANCO**

1 Plaintiff Cindy Lee Garcia hereby objects to and requests the Court to strike
 2 the Declarations of Tim Alger and Mark Basseley Youssef filed on November 28,
 3 2012, only *three business days* prior to the hearing on the Motion for Preliminary
 4 Injunction set for December 3, 2012, and which rely entirely on documents which,
 5 were they genuine (which Plaintiff can prove are *not*), have been available since
 6 2011.¹ The documents are a forgery, according to a credible forensic document
 7 examiner. See ¶ 8, below. The grounds for the objection are as follows:

8 1. Defendants Have Neither Sought Nor Been Granted Leave to File Late
 9 Evidence, Which Could Have Been Filed Timely, In Violation of F.R.C.P. 6(b),
 10 Local Rule 7-9 and this Court's Order Dated October 18, 2012. Defendants
 11 YouTube, LLC, and Google, Inc., neither sought nor obtained leave from this Court
 12 to file new "evidence" (specifically, a copyright release that all Defendants now
 13 claim that Plaintiff signed in 2011) three business days before the scheduled
 14 hearing. Federal Rule of Civil Procedure 6(b) requires that "[w]hen an act may or
 15 must be done within a specified time," a party must file a "motion ... after the time
 16 has expired if the party failed to act because of excusable neglect." The court may
 17 properly exclude untimely evidence when a party fails to submit that evidence
 18 pursuant to a motion, as Rule 6(b) expressly requires. Lujan v. Nat'l Wildlife Fed'n,
 19 497 U.S. 871, 895-98, 110 S. Ct. 3177, 111 L. Ed. 2d 695 (1990) ("Perhaps it is true
 20 that the District Court could have overcome all the obstacles we have described—
 21 apparent lack of a motion, of a showing, and of excusable neglect—to admit the
 22 affidavits at issue here. But the proposition that it was compelled to receive them—
 23 that it was an abuse of discretion to reject them—cannot be accepted"); see also
 24 Fleischer Studios, Inc. v. A.V.E.L.A., Inc. 654 F.3d 958, 966 (9th Cir. 2011)
 25 (upholding district court's exclusion of evidence filed late, without any leave from
 26

27 ¹ Although this Court initially set the hearing for November 19, 2012, it was
 28 delayed for two weeks at the request of Defendants YouTube, LLC, and Google,
 Inc., because lead defense counsel indicated that he was not available on that date.

the court). Pursuant to the Court's Minute Order dated October 18, 2012, Defendants' opposition and any supporting evidence was due on October 29, 2012. Local Rule 7-9 requires that the opposing party submit all evidence within the time prescribed by the rules of the Court. Defendants, fully aware of the issues involved in this case ever since Plaintiff filed her original case in California state court on September 19, 2012, have had four weeks to assemble their evidence, and clearly have ample resources to employ counsel and investigators to do so. Lead trial counsel Tim Alger admits that on November 16, 2012, he requested a copy of the documents that Google and YouTube now submit. Oddly, however, between November 16, 2012, and November 28, 2012, neither Google nor YouTube (nor their new ally, Defendant Youssef²) ever filed an *ex parte* application or even requested that Plaintiff's counsel stipulate to Defendants filing evidence late, obtaining a continuance, or conducting briefing on their "new" evidence, despite having had ample time and opportunity to do any of these things. This late filing shows Defendants' blatant disregard for the rules of this Court, and nothing short of sandbagging Plaintiff, whom Defendants know is a woman of extremely modest means and has virtually no resources to redress Defendants' misconduct.

2. Plaintiff Has No Opportunity to Cross-Examine the Declarants: Under

² It is unclear why Defendant Youssef has suddenly decided to "work with" Google and YouTube and join forces, to the point that Google and YouTube's lawyer apparently is drafting Mr. Youssef's declarations. One possible explanation is that Mr. Youssef was sentenced to death just days ago by an Egyptian court for his actions in making the film at issue in this case. See Declaration of M. Cris Armenta ("Armenta Decl."), ¶ 6, and Ex. D thereto ("Innocence of Muslims Participants Sentenced to Death in Egypt," *The Guardian*, Nov. 28, 2012, available at <http://www.guardian.co.uk/world/2012/nov/28/innocence-of-muslims-death-sentence>). This media report is not hearsay, as it is offered merely to show Mr. Youssef's state of mind, see FED. R. EVID. 803(3); even if it is hearsay not fitting within an exception to the hearsay rule, this Court is entitled to consider it on a motion for preliminary injunction. See *Flynt Distrib. Co.*, 734 F.2d at 1394 (9th Cir. 1984); see also *V.L. v. Wagner*, 669 F.Supp.2d 1106, 1115 n.8 (N.D. Cal. 2009) ("[O]n a motion for a preliminary injunction, the Court may consider inadmissible evidence, giving such evidence appropriate weight depending on the competence, personal knowledge, and credibility of the declarants.").

1 Local Rule 7-8, Plaintiff is entitled to request, 14 days before the hearing, the right
 2 to cross-examine a declarant. Having learned only three business days before the
 3 hearing that Google and YouTube have now joined forces with Mr. Youssef and that
 4 Defendants are relying on forged documents,³ Plaintiff has little opportunity to
 5 request the opportunity to cross-examine Defendant Youssef and Mr. Alger.⁴ As a
 6 matter of fairness, and because the late-filed evidence may render Local Rule 7-8 a
 7 dead letter, Plaintiff respectfully requests that this Court disregard Defendants' late-
 8 filed declarations and exhibits in their entirety. In the alternative, Plaintiff requests
 9 that this Court permit Plaintiff's counsel to cross-examine Defendant Youssef and
 10 Mr. Alger as requested in her separately submitted Notice of Request.

11 3. Objections to Mr. Alger's Declaration:

12
 13 Paragraph 2, first sentence.

Hearsay (FED. R. EVID. 802), lack of
 personal knowledge (FED. R. EVID.
 602). Mr. Alger is not competent to
 testify as to what was "completed and
 signed" by Plaintiff. Moreover,
 because it was Defendant Youssef, an
 individual convicted of felony fraud,
 who provided Mr. Alger's purported
 "knowledge" of whether or not
 Plaintiff executed the exhibit, this
 Court should reject all of Mr. Alger's

25 ³ See Declarations of M. Cris Armenta, Cindy Lee Garcia and Jim Blanco.

26 ⁴ Plaintiff filed a request under the local rules to cross-examine Mark Basseley
 27 Youssef. Mr. Youssef is still housed at the Los Angeles Metropolitan Detention
 28 Center. The objection to the Notice of Request filed today does not properly assert
 the bases permissible in the Rule 7-8.

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	<p>statements that are grounded on Defendant Youssef's statements and representations as not credible. <i>See</i> FED. R. EVID. 609(2) (witness's character for truthfulness by evidence of a criminal conviction is appropriately attacked where crime of conviction involved a dishonest act or false statement); <u>QBAS Co. v. C. Walters Intercoastal Corp.</u>, 2010 U.S. DIST. LEXIS 143945, *28 (C.D. Cal., Dec. 16, 2010), quoting <u>New England Braiding v. A.W. Chesterton Co.</u>, 970 F.2d 878, 884 (Fed. App. 1992) ("A credibility determination is well within the court's province when ruling on a preliminary injunction motion.").</p>
Paragraph 3.	<p>Lack of personal knowledge (FED. R. EVID. 602); Mr. Alger is not competent to testify as to what is the "original release" because he lacks personal knowledge. Moreover, because it was Defendant Youssef, an individual convicted of felony fraud, who provided Mr. Alger's purported "knowledge" of the contents of the</p>

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	<p>“original release,” this Court should reject all of Mr. Alger’s statements that are grounded on Defendant Youssef’s statements and representations as not credible. <i>See</i> FED. R. EVID. 609(2) (witness’s character for truthfulness by evidence of a criminal conviction is appropriately attacked where crime of conviction involved a dishonest act or false statement); <u>QBAS Co. v. C. Walters Intercoastal Corp.</u>, 2010 U.S. DIST. LEXIS 143945, *28 (C.D. Cal., Dec. 16, 2010), quoting <u>New England Braiding v. A.W. Chesterton Co.</u>, 970 F.2d 878, 884 (Fed. App. 1992) (“A credibility determination is well within the court’s province when ruling on a preliminary injunction motion.”).</p>
Paragraph 5, first sentence.	<p>Lack of personal knowledge (FED. R. EVID. 602); Mr. Alger is not competent to testify as to what Mr. Seiden did or did not do. Notably, there is no declaration from Mr. Seiden, nor any declaration from any member of Mr. Youssef’s “family.”</p>

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	<p>Moreover, because it was Defendant Youssef, an individual convicted of felony fraud, who provided Mr. Alger's purported "knowledge" of the activities of Mr. Seiden and/or Mr. Youssef's "family," this Court should reject all of Mr. Alger's statements that are grounded on Defendant Youssef's statements and representations as not credible. <i>See</i> FED. R. EVID. 609(2) (witness's character for truthfulness by evidence of a criminal conviction is appropriately attacked where crime of conviction involved a dishonest act or false statement); <u>QBAS Co. v. C. Walters Intercoastal Corp.</u>, 2010 U.S. DIST. LEXIS 143945, *28 (C.D. Cal., Dec. 16, 2010), quoting <u>New England Braiding v. A.W. Chesterton Co.</u>, 970 F.2d 878, 884 (Fed. App. 1992) ("A credibility determination is well within the court's province when ruling on a preliminary injunction motion.").</p>
Paragraph 5, second sentence.	Irrelevant (FED. R. EVID. 401). Ms.

	Garcia's current telephone number has no bearing on what her telephone number is in 2011, or more specifically, on August 9, 2011, the date on which Defendants claim that Plaintiff signed the "release."
Paragraph 5, third and fourth sentences.	What an investigator purportedly told Mr. Alger is hearsay. FED. R. EVID. 802; <u>X17, Inc. v. Lavandeira</u> , 2007 U.S. Dist. LEXIS 17279, at *8 (C.D. Cal. 2007) (rejecting hearsay evidence and unauthenticated documents at preliminary injunction hearing).
Paragraph 9, in its entirety.	Best evidence rule (FED. R. EVID. 1002), improper argument. Mr. Alger's recitation of the release is inadmissible.
Paragraph 10.	Hearsay (FED. R. EVID. 802), speculation. Mr. Alger's testimony as to what Mr. Youssef would say, if called as a witness, is hearsay and speculation. <u>See X17, Inc. v. Lavandeira</u> , 2007 U.S. Dist. LEXIS 17279, at *8 (C.D. Cal. 2007) (rejecting hearsay evidence and unauthenticated documents at

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	preliminary injunction hearing).
Paragraph 11.	Hearsay (FED. R. EVID. 802), speculation. Mr. Alger's testimony as to what Mr. Youssef would say, if called as a witness, is hearsay and speculation. <u>See X17, Inc. v. Lavandeira</u> , 2007 U.S. Dist. LEXIS 17279, at *8 (C.D. Cal. 2007) (rejecting hearsay evidence and unauthenticated documents at preliminary injunction hearing).
Paragraphs 13-15.	Untimely. Mr. Alger had an opportunity already to rebut Plaintiff's evidence, or to seek leave to do so, and failed to do either. The untimely attack on Plaintiff's declarations is improper, and also materially false, as shown by the Declarations of attorneys M. Cris Armenta, Credence Sol, David Hardy, and Jason Armstrong. FED. R. CIV. PROC. 6(b), C.D. Cal. Local Rule 7-9.

4. Refusal to Permit Inspection of Original. As demonstrated by the emails exchanged by counsel. Plaintiff's lead counsel asked Mr. Alger *twice* for an opportunity to inspect the purported "release" documents, including both the original (which would be preferred by any competent handwriting analysis expert)

1 and the purported exhibits to the “release,” none of which Plaintiff’s counsel has yet
 2 seen. *See* Armenta Decl. ¶¶ 2-3, and Exhibits A and B thereto. Mr. Alger refused to
 3 accede to those requests. Now, it appears that Mr. Alger has the original in his
 4 possession. Yet, Plaintiff has still not inspected the original. *See* Armenta Decl.
 5 ¶¶ 2-3, and Exhibits A and B thereto.

6 5. The Documents Are So Incomplete As To Be Entirely Unreliable:

- 7 a. The copy of the “Cast Deal Memo” has the party to the purported
 8 agreement crossed out before the acronym “LLC” on the second line.
 9 Therefore, it is impossible to discern the identity of the party to that
 10 portion of the agreement. Declaration of Mark Basseley Youssef
 11 (“Youssef Decl.”), Ex. 1.
- 12 b. The “Cast Deal Memo” also is unsigned in the space on page 2
 13 allocated for “Producer.” Youssef Decl., Ex. 1. This omission strongly
 14 suggests that the purported “Cast Deal Memo,” assuming that it was
 15 not fabricated for the purposes of litigation, in reality is merely an
 16 unexecuted draft. The “Cast Deal Memo” contains other significant
 17 omissions, including: (i) the lack of a signature even purporting to be
 18 that of Cindy Lee Garcia on this document (the only document
 19 purporting to create a “work for hire” relationship, as the Copyright Act
 20 mandates in order for Ms. Garcia to have effectively assigned her
 21 copyright interest); (2) the lack of a signature line for Ms. Garcia’s
 22 signature; (3) the lack of language in the “Cast Deal Memo”
 23 incorporating it by reference into the “Personal Release” (the only
 24 document of the two purporting to exhibit Ms. Garcia’s signature); or
 25 (4) the lack of any other reference to the “Personal Release.” Youssef
 26 Decl., Ex. 1.
- 27 c. With respect to the document titled “Personal Release,” the name of the
 28

1 production company is redacted or concealed, rendering it impossible
2 to discern the identity of the production company. Youssef Decl., Ex.
3 1.

4 d. In the first full paragraph of the document titled "Personal Release,"
5 there is no title inserted for the "Picture," and therefore, it is impossible
6 to discern to what "Picture" this document refers. Youssef Decl., Ex. 1.

7 e. Finally, on the bottom space below the words "AGREED AND
8 ACCEPTED TO" in the document titled "Personal Release," there is no
9 signature, again suggesting that this document, like the "Cast Deal
10 Memo," is nothing more than an unexecuted draft, assuming that it was
11 not fabricated for the purposes of litigation. Youssef Decl., Ex. 1.

12 6. Other Indicia of Unreliability: The documents bear other indicia of
13 unreliability. In the "Personal Release," the top handwritten line refers to the title of
14 the project as "Desert Warriors." Youssef Decl., Ex. 1. Notably, at the time Cindy
15 Lee Garcia and the rest of her duped castmates appeared in the film, its working title
16 was "Desert Warrior," *not* "Desert Warriors." Declaration of Gaylord Flynn
17 ("Flynn Decl."), ¶ 2. However, after this case became the subject of a media
18 maelstrom, some media misreported the name of the film as "Desert Warriors,"
19 instead of its actual name, "Desert Warrior." It is hard to imagine that at the time
20 the film was actually made, those involved in the legal paperwork and production of
21 the film would get the name of the film wrong. It seems more reasonable to
22 conclude that someone, *after* the media storm began, created these documents, and
23 made the same mistake as the media. This conclusion is bolstered by the fact that
24 both of the documents that Defendants have submitted apparently purport to refer to
25 Mr. Youssef as "Sam Bessi (matthew mtt). Youssef Decl., Ex. 1. However, Mr.
26 Youssef has never used the alias "Sam Bessi" (*see* Armenta Decl., ¶ 4, Ex. C, at 6:6-
27 16, 7:13-22 (listing the aliases that Mr. Youssef has used as including "Nakoula
28

Basseley Nakoula,” “Mark Basseley Youssef,” “Sam Bassil,” “Sam Bassiel,” and “Sam Bacile”)), nor do Defendants provide any other explanation as to whom either “Sam Bessi” nor “matthew mtt” are. Accordingly, because the documents apparently purport to transfer Ms. Garcia’s copyright to a non-existent person, it is void. See Cal. Civ. Code § 1558 (“It is essential to the validity of a contract, not only that the parties should exist, but that it should be possible to identify them”); see Westlye v. Look Sports, Inc. 17 Cal. App. 4th 1715, 1778 (1993) (refusing to extend release to parties not identified in the ski liability release); Cisco v. Van Lew, 60 Cal. App. 2d 575 (1943) (court refusing contract because party not identified).

7. Ms. Garcia’s Castmate Also Has Disavowed the Authenticity of the Purported Documents: Garcia’s fellow cast members have sworn that they did not sign papers like the ones Defendants have submitted.⁵ For example, actor Gaylord Flynn, whose role was more substantial than that of Plaintiff, has submitted a sworn declaration testifying that he reviewed both the purported “Personal Release” and “Cast Deal Memo,” that he was not presented with any such documents to sign, and that if he had been presented with such documents, he would remember it. Flynn Decl. ¶ 2; *see also* Declaration of Dan Sutter, submitted in support of Plaintiff’s *Ex Parte* Application for Temporary Restraining Order, at ¶ 4.

8. The Writing is a Forgery: A credible forensic handwriting has unequivocally that the handwriting is *not* that of Cindy Lee Garcia. See Declaration of James Blanco.⁶

⁵ Of course, had Mr. Youssef and his agents required the cast to sign a “Personal Release” and/or “Cast Deal Memo,” they would have required *all* cast members (not just Plaintiff, whose role in the production and all Defendants have now minimized and belittled) to sign such agreements.

⁶ Mr. Blanco delivered his oral report to Plaintiff’s counsel this morning, Friday, November 30, 2012, at 10:15 a.m. As soon as counsel receives his written report, it will be made immediately available to Defendants and the Court.

1 9. This Court Should Disregard in Its Entirety the Declaration of Mr.
2 Youssef. Mr. Youssef, who was convicted of bank fraud in 2010, is currently
3 serving time for violating the conditions of his parole, for, significantly, *lying*. See
4 Armenta Decl. ¶ 4, and Ex. C thereto, at 18:2-12. Mr. Alger, the lawyer for Mr.
5 Youssef's allies Google and YouTube, apparently prepared Mr. Youssef's
6 declaration, which he signed at the federal Metropolitan Detention Center.
7 However, because Mr. Youssef is a convicted felon who committed a crime of
8 dishonesty, Plaintiff respectfully requests that this Court reject his declaration in its
9 entirety as not credible. See FED. R. EVID. 609(2) (witness's character for
10 truthfulness by evidence of a criminal conviction is appropriately attacked where
11 crime of conviction involved a dishonest act or false statement); QBAS Co. v. C.
12 Walters Intercoastal Corp., 2010 U.S. DIST. LEXIS 143945, *28 (C.D. Cal., Dec.
13 16, 2010), quoting New England Braiding v. A.W. Chesterton Co., 970 F.2d 878,
14 884 (Fed. App. 1992) ("A credibility determination is well within the court's
15 province when ruling on a preliminary injunction motion."). Indeed, if this Court
16 were to adjudge Mr. Youssef not credible, it will be the second Court in this district
17 to do so this month. See Armenta Decl. ¶ 4, and Ex. C thereto, at 18:2-12. In other
18 words, this Court should completely disbelieve Mr. Youssef's declaration and
19 averment that, notwithstanding his many previous lies, he now suddenly is telling
20 the truth. His declaration should be stricken in its entirety.

21 10. Even if the Documents Are Genuine, Which Plaintiff Can Prove They
22 Are Not, They Are Void, Because It is Undisputed That They Were Procured by
23 Fraud: Based on the evidence before the Court, "Personal Release" and "Cast Deal
24 Memo," even if genuine, were procured by fraud, as already established by the
25 Declaration of Cindy Lee Garcia.⁷ Mr. Youssef used a false name and tricked the
26

27 ⁷ Plaintiff expects that, if this Court grants her request to cross-examine Mr.
28 Youssef, he will admit, as recently reported by the *New York Times*, that he and his
agents (including his son, who apparently is one of the individuals who has posted

Case: 12-57302, 01/18/2013, ID: 8479689, DktEntry: 5-5, Page 98 of 218

1 cast and crew into believing they were participating in an innocuous historical
2 adventure when, in fact, at all times he intended to use the footage to create a piece
3 of anti-religious hate speech. It is established law in the Ninth Circuit that even if a
4 copyright holder (in this case, an actor) impliedly grants a license to a producer to
5 use her copyrighted content (in this case, Ms. Garcia's performance in "Desert
6 Warrior"), if the scope of that license is exceeded, then the use is unauthorized, the
7 license is invalidated and the original copyright holder's copyright claim against the
8 producer is restored. Oddo v. Ries, 743 F.2d 630, 633 (9th Cir. 1984); see also
9 Gilliam v. American Broadcasting Cos., 538 F.2d 14, 19-21 (2d Cir. 1976) (license
10 to use underlying work in a particular derivative work does not permit licensee to
11 use underlying work in any other derivative work).

12
13 Dated: November 30, 2012

THE ARMENTA LAW FIRM, A.P.C.

14
15 By:



16 M. Cris Armenta
17 Attorneys for Plaintiff
18 Cindy Lee Garcia
19
20
21
22
23
24

25 the trailer on YouTube) knew that the film would put the actors at substantial risk,
26 and therefore misled them as to the nature of the project. See Armenta Decl., ¶ 7,
27 Ex. E ("From the Man Who Insulted Mohammed, No Regret," *New York Times*,
28 Nov. 25, 2012). This media report is not hearsay, as it embodies an admission of a
party opponent or his agent, see FED. R. EVID. 801(2); even if it is hearsay not fitting
within an exception to the hearsay rule, this Court is entitled to consider it on a
motion for preliminary injunction. See Flynt Distrib. Co., 734 F.2d at 1394; see also
V.L., 669 F.Supp.2d at 1115 n.8.

DECLARATION

ER831

DECLARATION OF M. CRIS ARMENTA

I, M. Cris Armenta, declare:

1. I am an attorney licensed in the State of California and principal of the Armenta Law Firm, counsel of record for Plaintiff Cindy Lee Garcia in this action. I am a member in good standing before the State Bar of California, and admitted to practice before this Court. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. On Sunday, November 18, 2012, I received an email from Tim Alger in which he represented that Plaintiff signed a release, consisting of two documents, of her rights for the film that is the subject of this litigation. At the time, I was on vacation in Nevada with my two children for Thanksgiving week and not in the office nor at my home office. Attached as Exhibit A is a true and correct copy of Mr. Alger's email, including both attachments.

3. The proffered documents were produced to me in .pdf form only. I immediately contacted my client, because the existence of these documents is inconsistent with her sworn declarations in this Court and inconsistent with the sworn statements of other actors that worked on the film. Based on my investigation on that Sunday of the Thanksgiving weekend, I advised Mr. Alger early on Monday morning, November 26, 2012, that my legal team had "serious doubts" as to the authenticity of the document. I asked: (1) that Mr. Alger inform us of the provenance or source of the proffered document; (2) that Mr. Alger provide the missing portions of the document that were either redacted or missing attachments; and (3) to inspect the original of the document. Mr. Alger informed me that he obtained the document from the criminal attorney representing Defendant Mark Youssef (a/k/a Nakoula Basseley Nakoula, Sam Bacile). Mr. Alger refused my other requests – to inspect the original and for the missing data or information,

1 and instead threatened to bring Rule 11 sanctions against my client and me. I
2 informed Mr. Alger that my team was moving very expeditiously to examine the
3 document and that I would be in touch very soon once we were able to complete a
4 responsible analysis of the proffered document(s). I immediately placed a telephone
5 call to Mr. Seiden, Defendant Youssef's criminal lawyer, to confirm Mr. Alger's
6 representations and to obtain any information possible about the provenance of the
7 document(s). My email exchanges with Mr. Alger following November 19, 2012, a
8 are attached hereto as Exhibit B.

9 4. The documents filed by Defendants contain certain indicia of
10 unreliability, which are set forth at length in Plaintiff's objection. With respect to
11 one of those indicium, the discrepancy between references to "Sam Bessi (matthew
12 mttta)" and the aliases that Judge Christina Snyder of this Court has found Mr.
13 Youssef has used, I attach the transcript of Mr. Youssef's parole violation hearing
14 before Judge Snyder, dated November 7, 2012, as Exhibit C.

15 5. On Wednesday, November 28, 2012, Plaintiff was able to gather the
16 financial resources to retain a handwriting expert, Jim Blanco. Mr. Blanco delivered
17 his oral report to me this morning, at 10:15 a.m., on Friday, November 30, 2012 – to
18 the effect that none of the handwriting on the questioned documents belongs to
19 Cindy Lee Garcia. As soon as I receive his written report, I will make it
20 immediately available to the Court and to the Defendants.

21 6. According to media reports, this week an Egyptian court sentenced Mr.
22 Youssef, among others, to a sentence of death as a result of the film. Attached as
23 Exhibit D is a true and correct copy of an article titled "Innocence of Muslims
24 Participants Sentenced to Death in Egypt," *The Guardian*, Nov. 28, 2012, available
25 at [http://www.guardian.co.uk/world/2012/nov/28](http://www.guardian.co.uk/world/2012/nov/28/innocence-of-muslims-death-sentence)
26 [/innocence-of-muslims-death-sentence](http://www.guardian.co.uk/world/2012/nov/28/innocence-of-muslims-death-sentence)).
27
28

1 7. *The New York Times* recently reported that Mr. Youssef and his agents
2 (including his son, who apparently is one of the individuals who has posted the
3 trailer on YouTube) knew that the film would put the actors at substantial risk, and
4 therefore misled them as to the nature of the project. Attached as Exhibit E is an
5 article titled, "From the Man Who Insulted Mohammed, No Regret," *The New York*
6 *Times*, Nov. 25, 2012).

7 I declare under penalty of perjury under the laws of the United States of
8 America that the foregoing is true and correct.

9 Executed on this 30th day of November, 2012 at Bozeman, Montana.

10 
11 _____
12 M. Cris Armenta

EXHIBIT A

ER835

Cris Armenta

From: Alger, Timothy L. (Perkins Coie) <TAlger@perkinscoie.com>
Sent: Sunday, November 18, 2012 2:39 PM
To: Cris Armenta
Subject: Garcia v. Nakoula et al
Attachments: Garcia Cindy Lee-Releases (2) copy.pdf

Hi Cris --

Your client executed a release of all claims and assignment of any rights under the Copyright Act on August 9, 2011. A copy is attached. We believe you should dismiss the action promptly, and I'll work with you to accomplish that. I am traveling this evening and Monday but can be reached by cell phone at 650 223 3791.

Tim

Timothy L. Alger | Perkins Coie LLP
PARTNER
3150 Porter Drive • Palo Alto, California 94304
Four Embarcadero Center, Suite 2400 • San Francisco, California 94111
PHONE: 650.838.4334 • MOBILE: 650.223.3791 • FAX: 650.838.4534
E-MAIL: TAlger@perkinscoie.com

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PERSONAL RELEASE

Desert Warriors
Production Company
Address 1040 Hamilton rd.
Durante Ca. 91010

r Matthew Mttu.

Date 8/9/11

Ladies and Gentlemen:

I, the undersigned, hereby grant permission to Sam Bessi (Matthew Mttu)
("Producer") to photograph me and to record my voice, performances, poses, acts, plays and appearances, and use
my picture, photograph, silhouette and other reproductions of my physical likeness and sound as part of the _____
One Roman tentatively entitled _____
(the "Picture") and the unlimited distribution, advertising,
promotion, exhibition and exploitation of the Picture by any method or device now known or hereafter devised in which
the same may be used, and/or incorporated and/or exhibited and/or exploited.

I agree that I will not assert or maintain against you, your successors, assigns and licensees, any claim, action, suit or demand of any kind or nature whatsoever, including but not limited to, those grounded upon invasion of privacy, rights of publicity or other civil rights, or for any other reason in connection with your authorized use of my physical likeness and sound in the Picture as herein provided. I hereby release you, your successors, assigns and licensees, and each of them, from and against any and all claims, liabilities, demands, actions, causes of action(s), costs and expenses whatsoever, at law or in equity, known or unknown, anticipated or unanticipated, which I ever had, now have, or may, or shall hereafter have by reason, matter, cause or thing arising out of your use as herein provided.

I affirm that neither I, nor anyone acting for me, gave or agreed to give anything of value to any of your employees or a representative of any television network, motion picture studio or production entity for arranging my appearance on the Picture.

The undersigned understands that they will not be compensated for their appearance in the recording.

I have read the foregoing and fully understand the meaning and effect thereof and, intending to be legally bound, I have signed this release.

Dated 8/9/11 Signature Cynthia Garcia

If a minor, Guardian's Signature

Please Print Name

Address

AGREED AND ACCEPTED TO

By (661) 817-3347
Phone Number

Release #1

ER837

Cast Deal Memo

This memo outlines terms of the agreement between ~~Producer~~ MM LLC. and Cindy Garcia (hereinafter "Producer") related to the production of ~~Motion Picture~~ (hereinafter "Motion Picture.")

1. Services:

Cindy Garcia agrees to perform the services outlined in Appendix A.

2. Compensation:

Subject to the rest of the terms of this agreement, and upon satisfactory completion of the services outlined in Appendix A, Producer agrees to compensate Cindy Garcia at the rate and time designated in Appendix B.

3. Employment Status: [Independent Contractor]

[Independent Contractor: The parties agree that CG is an independent contractor, who is not required to work exclusively for Producer now or in the future, and who, as a professional, is expected to complete the assignment without supervision or training. No fringe benefits or overtime compensation will be provided and the contractor is solely responsible for all income, self-employment and other taxes due upon this income received in conjunction with the services rendered under this agreement. The contractor is not entitled to collect unemployment compensation under this agreement.]

4. Assignment of Rights

[CG assigns to producer all rights necessary for the development, production and exploitation of the Motion Picture, whether denominated copyrights, performance rights, or publicity rights, including the right to reasonable use of his/her name and likeness in conjunction with the development, production and exploitation of the Motion Picture, and waives any right to sue Producer over such use.]

[CG warrants to Producer that all

writing submitted for the Motion Picture is his own original work. The parties agree the script and all revisions of the script of the film are "works made for hire" as defined under article 101 of Title 17 of the U.S. Code. If for any reason the script should be determined to not be a "work made for hire," CG assigns all rights he may have to the work under U.S. and International copyright law to Producer.

5. Credits:

Producer agrees to provide the following credits:

Sam Bessi (matthew matthe)

8/9/11
Date

Social Security Number

563-15-2710

Address

Producer

Date

Appendix A:

[Describe the services to be performed in plain English including dates and times required to be available and any equipment to be provided.]

[Examples: actor playing (role); dates; times (or "as needed"); related responsibilities. Writer; responsibilities including revisions/turn around times between dates; Stunts/effects...]

Appendix B:

Describe Compensation Rate

ER839

EXHIBIT B

ER840

Cris Armenta

From: Cris Armenta
Sent: Monday, November 26, 2012 10:02 AM
To: 'Alger, Timothy L. (Perkins Coie)'
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; sbali@perkinscoie.com
Subject: RE: Garcia v. Nakoula et al

Dear Tim:

Based on what we have learned from our own client and from others who worked on this film, we have serious doubts as to the authenticity of the document(s) you sent. What do you offer as the provenance, or ability to authenticate, this document? We can better analyze its authenticity if we know where and from whom Google obtained it. We are examining the issue now and once you provide us with the purported origin of the document, will get back to you very soon.

Cris

From: Alger, Timothy L. (Perkins Coie) [mailto:TAlder@perkinscoie.com]
Sent: Sunday, November 18, 2012 2:39 PM
To: Cris Armenta
Subject: Garcia v. Nakoula et al

Hi Cris --

Your client executed a release of all claims and assignment of any rights under the Copyright Act on August 9, 2011. A copy is attached. We believe you should dismiss the action promptly, and I'll work with you to accomplish that. I am traveling this evening and Monday but can be reached by cell phone at 650 223 3791.

Tim

Timothy L. Alger | Perkins Coie LLP
PARTNER
3150 Porter Drive • Palo Alto, California 94304
Four Embarcadero Center, Suite 2400 • San Francisco, California 94111
PHONE: 650.838.4334 • MOBILE: 650.223.3791 • FAX: 650.838.4534
E-MAIL: TAlder@perkinscoie.com

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Cris Armenta

From: Cris Armenta
Sent: Monday, November 26, 2012 10:13 AM
To: 'Alger, Timothy L. (Perkins Coie)'
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; sbali@perkinscoie.com
Subject: RE: Garcia v. Nakoula et al

In addition: (1) the second document you transmitted references attachments which we did not receive. Do you have those? And: (2) Do you have an original of these documents? If so, we would like to inspect them immediately.

Cris

From: Cris Armenta
Sent: Monday, November 26, 2012 10:02 AM
To: 'Alger, Timothy L. (Perkins Cole)'
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; sbali@perkinscoie.com
Subject: RE: Garcia v. Nakoula et al

Dear Tim:

Based on what we have learned from our own client and from others who worked on this film, we have serious doubts as to the authenticity of the document(s) you sent. What do you offer as the provenance, or ability to authenticate, this document? We can better analyze its authenticity if we know where and from whom Google obtained it. We are examining the issue now and once you provide us with the purported origin of the document, will get back to you very soon.

Cris

From: Alger, Timothy L. (Perkins Cole) [mailto:TAAlger@perkinscoie.com]
Sent: Sunday, November 18, 2012 2:39 PM
To: Cris Armenta
Subject: Garcia v. Nakoula et al

Hi Cris --

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Tim

Timothy L. Alger | Perkins Cole LLP
PARTNER
3150 Porter Drive • Palo Alto, California 94304
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PHONE: 650.838.4334 • MOBILE: 650.223.3791 • FAX: 650.838.4534
E-MAIL: TAAlger@perkinscoie.com

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Cris Armenta

From: Cris Armenta
Sent: Monday, November 26, 2012 10:26 AM
To: 'Alger, Timothy L. (Perkins Coie)'
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; Bali, Sunita (Perkins Coie)
Subject: RE: Garcia v. Nakoula et al

Thank you for advising us on the first query. Our client CANNOT confirm its authenticity. We are not inclined or disinclined at this point. We have had the document for 3 business days, one of which was the day before Thanksgiving, and I was on vacation all last week. We will get back to you as soon as we can.

Thanks.

From: Alger, Timothy L. (Perkins Coie) [mailto:TAlder@perkinscoie.com]
Sent: Monday, November 26, 2012 10:08 AM
To: Cris Armenta
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; Bali, Sunita (Perkins Coie)
Subject: Re: Garcia v. Nakoula et al

We obtained it from Mr. Nakoula's criminal counsel. I would think your client would be able to confirm or deny its authenticity. If you are not inclined to dismiss the matter, let me know this morning and I will file it with the court with appropriate authentication. It's been a full week since I provided this document to you.

From: Cris Armenta <cris@crisarmenta.com>
Date: Mon, 26 Nov 2012 10:01:59 -0800
To: TIMOTHY ALGER <talger@perkinscoie.com>
Cc: "Jason Armstrong (armstronglaw@me.com)" <armstronglaw@me.com>, "David Hardy (David.Hardy@DMCASolutions.com)" <David.Hardy@DMCASolutions.com>, "Sol, Credence (credence.sol@sol-law.com)" <credence.sol@sol-law.com>, Heather Rowland <heather@crisarmenta.com>, "Bali, Sunita (Perkins Coie)" <SBali@perkinscoie.com>
Subject: RE: Garcia v. Nakoula et al

Dear Tim:

Based on what we have learned from our own client and from others who worked on this film, we have serious doubts as to the authenticity of the document(s) you sent. What do you offer as the provenance, or ability to authenticate, this document? We can better analyze its authenticity if we know where and from whom Google obtained it. We are examining the issue now and once you provide us with the purported origin of the document, will get back to you very soon.

Cris

From: Alger, Timothy L. (Perkins Coie) [mailto:TAlder@perkinscoie.com]
Sent: Sunday, November 18, 2012 2:39 PM

To: Cris Armenta
Subject: Garcia v. Nakoula et al

Hi Cris --

Your client executed a release of all claims and assignment of any rights under the Copyright Act on August 9, 2011. A copy is attached. We believe you should dismiss the action promptly, and I'll work with you to accomplish that. I am traveling this evening and Monday but can be reached by cell phone at 650 223 3791.

Tim

Timothy L. Alger | Perkins Coie LLP
PARTNER
3150 Porter Drive • Palo Alto, California 94304
Four Embarcadero Center, Suite 2400 • San Francisco, California 94111
PHONE: 650.838.4334 • MOBILE: 650.223.3791 • FAX: 650.838.4534
E-MAIL: TAlger@perkinscoie.com

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Cris Armenta

From: Cris Armenta
Sent: Monday, November 26, 2012 10:54 AM
To: 'Alger, Timothy L. (Perkins Coie)'
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; Bali, Sunita (Perkins Coie)
Subject: RE: Garcia v. Nakoula et al

Dear Tim:

We received the document(s) on the Sunday before Thanksgiving during a time when you informed us that you would not be available due to other commitments in Austin and I was out of state on vacation. I am sure you are cognizant that it is our duty and obligation to investigate the authenticity of the proffered document, especially in light of the fact that it is inconsistent with: (1) our client's recollection; (2) the recollections of other actors on the film; and (3) Mr. Seiden's previous direct representation to me. Obviously, there are also major issues of fraud also involved. We cannot simply dismiss based on YOUR representation that this is Ms. Garcia's release. You would do no different, I am sure. We have asked for the original of the document and to inspect the original. I am sure you are also aware that any competent examiner would want to examine the original. Please furnish us with the original, and as soon as our investigation is complete, we will advise you of our decision. Obviously, we are moving very quickly in order to have a decision before the hearing next week, so that the positions are clear and we can make a responsible recommendation to our client prior to the hearing.

If you have any other information or can tell us how you intend to authenticate these document(s) or the missing portions of the documents (s) (both those that are redacted or crossed out or the missing attachments), that would likewise be helpful to an expedient analysis.

Cris

From: Alger, Timothy L. (Perkins Coie) [mailto:TAlder@perkinscoie.com]
Sent: Monday, November 26, 2012 10:28 AM
To: Cris Armenta
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; Bali, Sunita (Perkins Cole)
Subject: Re: Garcia v. Nakoula et al

I think you're going to have to decide right now whether you want to challenge the authenticity of this document at the risk of Rule 11 sanctions and a damages claim under 17 USC 512(f), both of which my clients are prepared to pursue. We've waited a full week to hear from you and are prepared to move forward in court now.

From: Cris Armenta <cris@crisarmenta.com>
Date: Mon, 26 Nov 2012 10:01:59 -0800
To: TIMOTHY ALGER <talger@perkinscoie.com>
Cc: "Jason Armstrong (armstronglaw@me.com)" <armstronglaw@me.com>, "David Hardy (David.Hardy@DMCASolutions.com)" <David.Hardy@DMCASolutions.com>, "Sol, Credence (credence.sol@sol-law.com)" <credence.sol@sol-law.com>, Heather Rowland <heather@crisarmenta.com>, "Bali, Sunita (Perkins Coie)" <SBali@perkinscoie.com>
Subject: RE: Garcia v. Nakoula et al

Dear Tim:

Based on what we have learned from our own client and from others who worked on this film, we have serious doubts as to the authenticity of the document(s) you sent. What do you offer as the provenance, or ability to authenticate, this document? We can better analyze its authenticity if we know where and from whom Google obtained it. We are examining the issue now and once you provide us with the purported origin of the document, will get back to you very soon.

Cris

From: Alger, Timothy L. (Perkins Coie) [mailto:TAlger@perkinscoie.com]
Sent: Sunday, November 18, 2012 2:39 PM
To: Cris Armenta
Subject: Garcia v. Nakoula et al

Hi Cris --

Your client executed a release of all claims and assignment of any rights under the Copyright Act on August 9, 2011. A copy is attached. We believe you should dismiss the action promptly, and I'll work with you to accomplish that. I am traveling this evening and Monday but can be reached by cell phone at 650 223 3791.

Tim

Timothy L. Alger | Perkins Coie LLP
PARTNER
3150 Porter Drive • Palo Alto, California 94304
Four Embarcadero Center, Suite 2400 • San Francisco, California 94111
PHONE: 650.838.4334 • MOBILE: 650.223.3791 • FAX: 650.838.4534
E-MAIL: TAlger@perkinscoie.com

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Cris Armenta

From: Alger, Timothy L. (Perkins Coie) <TAlger@perkinscoie.com>
Sent: Monday, November 26, 2012 11:05 AM
To: Cris Armenta
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; Bali, Sunita (Perkins Coie)
Subject: Re: Garcia v. Nakoula et al

I'll assume you are unwilling to voluntarily dismiss the action and will proceed accordingly.

From: Cris Armenta <cris@crisarmenta.com>
Date: Mon, 26 Nov 2012 10:53:43 -0800
To: TIMOTHY ALGER <talger@perkinscoie.com>
Cc: "Jason Armstrong (armstronglaw@me.com)" <armstronglaw@me.com>, "David Hardy (David.Hardy@DMCASolutions.com)" <David.Hardy@DMCASolutions.com>, "Sol, Credence (credence.sol@sol-law.com)" <credence.sol@sol-law.com>, Heather Rowland <heather@crisarmenta.com>, "Bali, Sunita (Perkins Coie)" <SBall@perkinscoie.com>
Subject: RE: Garcia v. Nakoula et al

Dear Tim:

We received the document(s) on the Sunday before Thanksgiving during a time when you informed us that you would not be available due to other commitments in Austin and I was out of state on vacation. I am sure you are cognizant that it is our duty and obligation to investigate the authenticity of the proffered document, especially in light of the fact that it is inconsistent with: (1) our client's recollection; (2) the recollections of other actors on the film; and (3) Mr. Selden's previous direct representation to me. Obviously, there are also major issues of fraud also involved. We cannot simply dismiss based on YOUR representation that this is Ms. Garcia's release. You would do no different, I am sure. We have asked for the original of the document and to inspect the original. I am sure you are also aware that any competent examiner would want to examine the original. Please furnish us with the original, and as soon as our investigation is complete, we will advise you of our decision. Obviously, we are moving very quickly in order to have a decision before the hearing next week, so that the positions are clear and we can make a responsible recommendation to our client prior to the hearing.

If you have any other information or can tell us how you intend to authenticate these document(s) or the missing portions of the documents (s) (both those that are redacted or crossed out or the missing attachments), that would likewise be helpful to an expedient analysis.

Cris

From: Alger, Timothy L. (Perkins Coie) [mailto:TAlger@perkinscoie.com]
Sent: Monday, November 26, 2012 10:28 AM
To: Cris Armenta
Cc: Jason Armstrong (armstronglaw@me.com); David Hardy (David.Hardy@DMCASolutions.com); Sol, Credence (credence.sol@sol-law.com); Heather Rowland; Bali, Sunita (Perkins Coie)
Subject: Re: Garcia v. Nakoula et al

I think you're going to have to decide right now whether you want to challenge the authenticity of this document at the risk of Rule 11 sanctions and a damages claim under 17 USC 512(f), both of which my clients are prepared to pursue. We've waited a full week to hear from you and are prepared to move forward in court now.

From: Cris Armenta <cris@crisarmenta.com>

Date: Mon, 26 Nov 2012 10:01:59 -0800

To: TIMOTHY ALGER <talger@perkinscoie.com>

Cc: "Jason Armstrong (armstronglaw@me.com)" <armstronglaw@me.com>, "David Hardy (David.Hardy@DMCASolutions.com)" <David.Hardy@DMCASolutions.com>, "Sol, Credence (credence.sol@sol-law.com)" <credence.sol@sol-law.com>, Heather Rowland <heather@crisarmenta.com>, "Bali, Sunita (Perkins Coie)" <SBali@perkinscoie.com>

Subject: RE: Garcia v. Nakoula et al

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Cris

From: Alger, Timothy L. (Perkins Cole) [<mailto:TAAlger@perkinscoie.com>]

Sent: Sunday, November 18, 2012 2:39 PM

To: Cris Armenta

Subject: Garcia v. Nakoula et al

Hi Cris --

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Timothy L. Alger | Perkins Cole LLP

PARTNER

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please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Cris Armenta

From: Cris Armenta
Sent: Wednesday, November 28, 2012 10:49 AM
To: talger@perkinscoie.com
Cc: Jason Armstrong (armstronglaw@me.com); Sol, Credence (credence.sol@sol-law.com); David Hardy (David.Hardy@DMCASolutions.com); Heather Rowland
Subject: Garcia
Attachments: 3527_001.pdf

Dear Tim:

Enclosed is the declaration of Gaylord Flynn, whom we believe was the most experienced of the actors on the set. He disavows having ever been presented with the documents you claim were signed by Ms. Garcia. He also states that had he been presented with such documents, he would recall such an event.

Our investigation continues, but to date, we have no evidence or information to suggest that the documents you have provided us are authentic. In fact, our investigation so far, as well as the sworn testimony of our client, reveals the exact opposite. Nevertheless, we continue to investigate the claims out of a need to be as thorough as possible.

Cris

From: scanner@crisarmenta.com [mailto:scanner@crisarmenta.com]
Sent: Tuesday, November 27, 2012 2:29 PM
To: Heather Rowland; Cris Armenta
Subject: Attached Image

EXHIBIT C

ER852

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE CHRISTINA A. SNYDER, JUDGE PRESIDING
UNITED STATES OF AMERICA,)
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)
)
Plaintiff,)
)
)
Vs.) No. CR 09-617 CAS
)
)
MARK BASSELEY YOUSSEF,)
)
)
Defendant.)
)
_____)

REPORTER'S TRANSCRIPT OF
FINAL REVOCATION OF SUPERVISED RELEASE
LOS ANGELES, CALIFORNIA
WEDNESDAY, NOVEMBER 7, 2012; 1:32 P.M.

LEANDRA AMBER, CSR 12070, RPR
OFFICIAL U.S. DISTRICT COURT REPORTER
312 NORTH SPRING STREET, # 408
LOS ANGELES, CALIFORNIA 90012
www.leandraamber.com
(213) 894-6603

UNITED STATES DISTRICT COURT

ER853

A P P E A R A N C E S

**IN BEHALF OF THE PLAINTIFF,
UNITED STATES OF AMERICA:**

U.S. DEPARTMENT OF JUSTICE
U.S. ATTORNEY'S OFFICE
BY: ROBERT DUGDALE, AUSA
312 NORTH SPRING STREET
12TH FLOOR
LOS ANGELES, CA 90012
(213) 894-4685
robert.dugdale@usdoj.gov

**IN BEHALF OF THE DEFENDANT,
MARK BASSELEY YOUSSEF:**

LAW OFFICE OF STEVEN A. SEIDEN
BY: STEVEN A. SEIDEN, ESQ.
3800 EL SEGUNDO BOULEVARD
SUITE 201
HAWTHORNE, CA 90250
(310) 644-5003

ALSO APPEARING:

HISHAM A. MALEK, ARABIC INTERPRETER
CURTIS SAMSON, U.S.P.O.
GRACIELA GUDINO, U.S.P.O.

UNITED STATES DISTRICT COURT

ER854

1	<u>I N D E X</u>	
2		<u>PAGE</u>
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4	HEARING:	FINAL REVOCATION OF SUPERVISED RELEASE
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UNITED STATES DISTRICT COURT

ER855

1 LOS ANGELES, CALIFORNIA; WEDNESDAY, NOVEMBER 7, 2012

2 1:32 P.M.

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4
5
6 THE CLERK: Calling calendar item two, case number
7 CR 09-617, United States of America versus Mark Basseley
8 Youssef.

9 Counsel, please state your appearances.

10 MR. DUGDALE: Good afternoon, your Honor.

11 Robert Dugdale on behalf of the United States of
12 America, and I'm present at counsel table with Graciela
13 Gudino and Curtis Samson of the United States Probation
14 Office.

15 THE COURT: Good afternoon.

16 MR. SEIDEN: Good afternoon, your Honor.

17 Steven Seiden on behalf of Mr. Youssef. He is
18 present with counsel.

19 THE COURT: All right. Good afternoon.

20 MR. SEIDEN: Thank you.

21 THE COURT: Okay. A few preliminary matters --

22 Mr. Youssef, first of all, we have a stand by
23 Arabic interpreter. Do you wish to proceed with the
24 assistance of the interpreter?

25 THE DEFENDANT: Yes.

UNITED STATES DISTRICT COURT

1 THE COURT: Okay.

2 THE DEFENDANT: Thank you.

3 THE COURT: Secondly, as a housekeeping matter,
4 before we proceed, Mr. Youssef, you submitted to me a letter
5 in Arabic, and I have not had an opportunity to read your
6 letter because we have been attempting to find the
7 appropriate procedure to fund, and now we have found the
8 procedure to fund a -- an interpreter translating it to me.

9 I don't know that your counsel has necessarily had
10 an opportunity to go over it, and my question to you is,
11 before we proceed today, do you want us either at sidebar or
12 in camera to read -- have that translated?

13 THE DEFENDANT: No.

14 THE COURT: Okay. Do you wish to tell us in
15 summary form anything that was contained in that
16 communication?

17 THE DEFENDANT: No.

18 THE COURT: All right. Then why don't we place
19 Mr. Youssef under oath, and I will proceed to ask him
20 regarding certain allegations.

21 THE CLERK: Please raise your right hand to the
22 best that you can.

23 Do you solemnly swear that you will answer
24 truthfully the questions that the Court will ask you so help
25 you God?

UNITED STATES DISTRICT COURT

ER857

1 THE DEFENDANT: Yes.

2 THE CLERK: Thank you.

3 THE COURT: All right. Mr. Youssef, I'm going to
4 be asking you about allegations and again whether you admit
5 or deny those allegations.

6 First of all, having been ordered by the Court not
7 to use for any purpose or in any manner any name other than
8 his true legal name or names without the prior written
9 approval of the Probation Officer, from December 26, 2010, to
10 the present, Nakoula Basseley Nakoula, you used the name
11 Nakoula Basseley Nakoula on all documentation provided to the
12 Court and the Probation Officer. Whereas on or about
13 October 1, 2002, in the Superior Court of California, County
14 of Orange, decree changing name, case number A 21-5011, upon
15 his own motion, the Superior Court ordered his name changed
16 from Nakoula Basseley Nakoula to Mark Basseley Youssef.

17 Do you admit or deny that?

18 THE DEFENDANT: (Through interpreter) admit.

19 (In English) admit.

20 THE COURT: Second, having been ordered by the
21 Court not to use for any purpose or in any manner any name
22 other than his true local name or names without the prior
23 written approval of the Probation Officer, from December 26,
24 2010, to the present, Nakoula Basseley Nakoula has possessed
25 a California driver's license under the name Nakoula Basseley

UNITED STATES DISTRICT COURT

ER858

1 Nakoula without prior written approval of the Probation
2 Officer.

3 Do you admit or deny that?

4 THE DEFENDANT: Admit.

5 THE COURT: Okay. Third, having been ordered by
6 the Court pursuant to general order 318 to not commit another
7 federal, state, or local crime, from December 26, 2010, to
8 the present, Nakoula Basseley Nakoula possessed a
9 fraudulently obtained California driver's license in
10 violation of California Vehicle Code section 14610.

11 Do you admit or deny that?

12 THE DEFENDANT: Admit.

13 THE COURT: Okay. And then my understanding is
14 that I am to go to allegation number five.

15 Having been ordered by the Court pursuant to
16 General Order 318 to answer truthfully all inquiries by the
17 Probation Officer on September 15, 2012, Nakoula Basseley
18 Nakoula falsely stated to the Probation Officer that he had
19 not used the name Sam Bassil and/or the variations of Sam
20 Bassiel and Sam Bacile.

21 Do you admit or deny that, sir?

22 THE DEFENDANT: Admit.

23 THE COURT: All right. It's my understanding that
24 pursuant to the agreement between Government and the defense,
25 those are the only allegations that remain active; is that

UNITED STATES DISTRICT COURT

ER859

1 correct, Mr. Dugdale?

2 MR. DUGDALE: Yes, your Honor.

3 Basically as a result of the defendant's admissions
4 to Allegations One, Two, Three, and Five, the Government will
5 agree to dismiss Allegations Four, Six, Seven, and Eight.

6 THE COURT: All right.

7 MR. DUGDALE: And in addition there are several
8 other provisions that we have agreed to or agreements that
9 we've reached as a result of this disposition.

10 The Government has agreed not to charge the
11 defendant with a violation of Title 18 United States Code
12 Section 1001, which is false statements based upon the
13 Allegations Seven and Eight.

14 The parties have agreed to stipulate that the
15 appropriate sentence in this case following the necessary
16 revocation of the defendant's supervised release is 12 months
17 imprisonment to be followed by an additional four-year period
18 of supervised release.

19 And also the parties have agreed that the defendant
20 will participate in a proffer with the United States
21 Probation Office and the United States Attorney's Office
22 pursuant to the terms of the Government's standard proffer
23 agreement to truthfully answer all questions concerning his
24 finances, his assets, his employment, and his income.

25 And provided he truthfully answers questions along

UNITED STATES DISTRICT COURT

ER860

1 those subject lines, the Government has agreed it won't
2 pursue further violations of the conditions of the
3 defendant's supervised release based upon those subjects and
4 those answers.

5 THE COURT: Thank you.

6 Mr. Seiden, do you agree?

7 MR. SEIDEN: We do agree, your Honor. We're going
8 to be requesting of the Court to at sentencing for home
9 confinement per the judge -- the Court's consideration.

10 Also, if the Court does not agree to that, we're
11 asking that you make a recommendation that he be housed in
12 the Southern California area.

13 THE COURT: All right.

14 MR. SEIDEN: Thank you.

15 THE COURT: First of all, let me state that given
16 the fact that Mr. Youssef has admitted Allegations One, Two,
17 Three, and Five, the Court finds him to be in violation of
18 the terms and conditions of his supervised release.

19 Let me hear from Mr. Dugdale regarding the request
20 for home confinement.

21 MR. DUGDALE: Yes, your Honor.

22 That wasn't exactly our agreement, but the
23 Government stands here relatively confident that the
24 appropriate sentence is one of imprisonment regardless of
25 what that request would be.

UNITED STATES DISTRICT COURT

ER861

1 So I would briefly talk about the four things that
2 illustrate that this was a serious breach of the Court's
3 trust through these violations that's deserving of the
4 one-year sentence that the Government is recommending here
5 through imprisonment to be followed by the four years of
6 supervised release.

7 First of all, these were serious violations. They
8 were violations that basically fall into two categories,
9 either the defendant's persistent use of names other than his
10 own true legal name or dishonesty with the Probation Office.
11 And obviously both of these things are important to the
12 ability of the Government and the Probation Office to
13 supervise the defendant.

14 Paramount is that he is honest with them. So when
15 asked questions about names he has used, employment that he's
16 had, things of that nature -- it's essential that people on
17 supervised release are truthful with Probation to allow them
18 to do their jobs. And this defendant was not truthful as he
19 admitted when he admitted violation number five.

20 And the alias issue was also a serious issue here
21 as well. And it's a serious issue because of the history and
22 characteristics of this particular defendant. As the Court
23 will remember back in 2009, 2010, in the underlying case,
24 this is a defendant who participated in a massive fraudulent
25 scheme involving the use of a whole host of fraudulent

UNITED STATES DISTRICT COURT

ER862

1 identities.

2 Well over 640 -- 641 credit and debit cards in
3 names other than his own were found in his possession that he
4 used to open no less than 60 different bank accounts to
5 defraud the victim banks in this case of approximately
6 \$800,000.

7 In this particular case, as the Court now knows, he
8 changed his name from Nakoula Basseley Nakoula to Mark
9 Basseley Youssef back in troubling. Despite that fact, even
10 including the litigation before this Court, he was using a
11 different name, his old name, Nakoula Basseley Nakoula. And
12 he has persisted in using that name throughout the term of
13 his supervised release even though he knows he knows as
14 well -- well knows that that is not his true legal name.

15 And perhaps most troubling he has carried
16 identification in these two different names during the period
17 of his supervised release. He has a passport in the name of
18 Mark Basseley Youssef. He has a driver's license in the name
19 of Nakoula -- Nakoula Basseley Youssef.

20 And as this Court should appreciate, as a result of
21 his criminal past including the use of aliases and multiple
22 forms of identification other than his true legal name, this
23 is not a defendant that we want out there using a name other
24 than his true name. This is not a defendant the Court should
25 want out in the streets using multiple forms of

UNITED STATES DISTRICT COURT

ER863

1 identification and having multiple forms of identification in
2 names other than his own.

3 And then of course there's the use of the name Sam
4 Bacile, which relates to Allegation Number Five to which the
5 defendant admitted, which is an entirely new identity that he
6 put forward to other people for fraudulent purposes as I'll
7 explain in a minute.

8 So because of that, these are serious allegations.
9 Because of his history and characteristics particularly
10 serious as it relates to this defendant.

11 Second, as the Probation Office noted in its
12 lengthy letter to the Court, this is a defendant who has
13 engaged in a long running pattern of deception really dating
14 back to when he first appeared in front of this Court and
15 misrepresented what his true name is all the way through up
16 to his arrest back in September in this case.

17 So his dishonesty goes back years. It's a
18 defendant with a criminal history which includes not only the
19 fraudulent conduct that resulted in victimization of the
20 banks to the tune of almost \$800,000 but also a prior
21 conviction related to methamphetamine manufacturing, even
22 selling nonconforming gas.

23 So his own businesses he has not operated on the up
24 and up. He's been dishonest with this Court. He's been
25 dishonest with the Probation Office. He's been dishonest

UNITED STATES DISTRICT COURT

ER864

1 with the officials in California who issued him that driver's
2 license that's not in his true name. He's been dishonest
3 with the people that he has done business with including the
4 people who appeared in the film that I'll talk about in a
5 second.

6 A third reason why a period of incarceration of
7 12 months is appropriate is because he was given a break
8 before by this Court and appropriately so at the time,
9 probably fully with the expectation of this Court that we
10 wouldn't be seeing him back here so quickly.

11 The United States Sentencing Guidelines provide in
12 section 7B1.4, application note three, that when an original
13 sentence was a result of a downward departure, as it was in
14 this case, that is something the Court should consider in
15 revocation conduct and perhaps grant an upward departure.

16 When -- because you got the break before did not
17 take advantage of that break and find yourself so soon in
18 front of the Court again as a result of engaging in violation
19 conduct in the legal conduct, that is something the Court
20 should take into account when sentencing him now.

21 As the Court will probably recall, he received a
22 21-month sentence when he was looking at a guideline range at
23 that time obviously purely advisory a 41 to 51 months.

24 THE COURT: Right. And I believe it was a 5K1.1
25 motion --

UNITED STATES DISTRICT COURT

ER865

1 MR. DUGDALE: There was.

2 THE COURT: -- that triggered the downward
3 departure by this Court, but nonetheless you are correct.

4 MR. DUGDALE: That is correct. And the application
5 note that I cite specifically talks about getting a downward
6 departure as a reward for substantial assistance.

7 And how, if you come back after something like
8 that, because you've engaged in violation conduct, that
9 should be taken into account and is an aggravating factor,
10 and the Government is citing it as so in this case.

11 And the last point as to why this was a serious
12 offense worthy of the punishment that frankly I thought the
13 parties had agreed to before a minute ago, is the fact that
14 his deception actually caused real harm to people.

15 I'm not going to say much about the movie. He's
16 not here because of the content of this movie --

17 THE COURT: Agreed.

18 MR. DUGDALE: -- but the way that he went about
19 making this movie is the problem because he did defraud
20 people. He portrayed to people that he was Sam Bill, not
21 Nakoula Basseley Nakoula, not even that person, not even Mark
22 Youssef -- not Basseley Youssef, but this other identity.

23 So the people who got involved with this -- the
24 actors and actresses who answered the casting call that he
25 made -- they had no idea that he was a recently released

UNITED STATES DISTRICT COURT

ER866

1 federal felon with a history as extensive as I mentioned
2 before who had defrauded banks out of close to \$800,000.

3 And had these people known that, had they been
4 given this true name and known his background, they might
5 have had some second thoughts before they joined in on that
6 project. But they didn't have that opportunity because the
7 defendant defrauded them by betraying something as
8 fundamental as his identity to them.

9 And second, as far as how he went about making the
10 movie -- and this is mentioned in the Probation Officer's
11 lengthy letter -- is then he committed a second deception
12 with these people. After they had filmed their scenes, he
13 went back and dubbed in language which made the film the film
14 that people have considered offensive.

15 And this is not a choice that these actors or
16 actresses had to made. It's the choices he made for them.
17 So if the defendant wanted to be a lightning rod for
18 controversy or attach himself to a project like this, as
19 amateurish as it was, and as offensive as people might view
20 it, that was his choice.

21 But he made this choice for other people who were
22 not on board with that decision and had no idea he was doing
23 so. And that's a substantial fraud. And as a result, these
24 people have come forward to the Probation Office and reported
25 that they have experienced death threats, they're afraid for

UNITED STATES DISTRICT COURT

ER867

1 their lives, they feel like they're careers have been
2 ruined -- all as a result of what this man did to defraud
3 them. So again it fits within the pattern of deceit that the
4 Probation Office has -- has cited to the Court.

5 As you know, the Probation Office actually in its
6 letter remitted two years. I will tell that you we've had
7 discussions with the Probation Office. They are on board
8 with the one-year recommendation in light of the defendant's
9 acceptance of responsibility in this case, which should of
10 course be considered as a mitigator by this Court.

11 But all in all as a result of the factors that I've
12 laid out here, your Honor, the United States does submit that
13 a one-year period of incarceration is an appropriate sentence
14 in light of the seriousness of the offenses and the damage
15 that he has done to other people as a result of this
16 longstanding pattern of fraudulent behavior that this
17 defendant has engaged in.

18 So unless the Court has any additional questions, I
19 will submit, your Honor. Thank you.

20 THE COURT: All right. Anything further?

21 MR. SEIDEN: Thank you, your Honor.

22 I'm not sure why the Government had to go into a
23 lengthy recitation of what we had already discussed
24 previously. We have an agreement. We worked very hard
25 towards a disposition in this matter. We've reached it. My

UNITED STATES DISTRICT COURT

ER868

1 client's made his admissions to the Court.

2 And as far as the movie goes, which I'm not sure
3 why that was brought up, but like any movies, people who are
4 involved in the making of the movies have the right to change
5 dialogue, change titles, change everything. These actors and
6 actresses whom nobody ever knew before signed releases. I
7 don't know why that's any part of any discussion today.

8 But my client has admitted that. We have agreed on
9 the disposition of the one-year confinement. We're just
10 asking the Court to consider home detention. He has not been
11 able to see any members of his family for the last five weeks
12 but for glances in court proceedings. He's had a very
13 difficult time getting his son and daughter in to see him at
14 the detention center. That will be corrected in the future.

15 And we're asking this Court to give him some
16 consideration. He has avoided a lengthy hearing probably by
17 allowing me to engage in discussions with the Government to
18 resolve this matter which we've done in a timely fashion I
19 believe. And we ask the Court to consider the home detention
20 that we're requesting.

21 Thank you.

22 THE COURT: Well, I am strongly of the opinion that
23 the one year in custody is appropriate for the reasons
24 indicated by the Government. The -- as far as I'm concerned,
25 Mr. Youssef has struck a deal far more favorable than he

UNITED STATES DISTRICT COURT

ER869

1 might have otherwise suffered had he proceeded to try this
2 case. I appreciate his acceptance of responsibility, but I
3 am also mindful of the fact that he has engaged in continuing
4 deception.

5 I might even add to the laundry list of Mr. Dugdale
6 that, as I recall, we placed Mr. Youssef under oath; and for
7 purposes of his guilty plea he presented himself as
8 Mr. Nakoula, which obviously was incorrect and a fraud on
9 this Court.

10 That's not why we're here either today. We're here
11 because of his continuing conduct in this regard and the fact
12 that he has not dealt honestly with Probation.

13 So I do think that one year in custody is
14 appropriate followed by four years of supervised release, and
15 that is what my sentence is going to be.

16 MR. SEIDEN: Your Honor, I appreciate that. Could
17 I just -- I neglected to mention one thing.

18 In the 2009 Presentence Report given to this Court,
19 the very first name under aliases was the name Mark Basseley
20 Youssef, and Probation never did anything further to confirm
21 at that time that that was in fact his legal name under the
22 name change that occurred in 2002.

23 And I wish they had. I wish his counsel at that
24 time had done that. We wouldn't be here today.

25 THE COURT: Well, you were not counsel at that

UNITED STATES DISTRICT COURT

ER870

1 time, but obviously all of us were led to believe that he had
2 a different name than his true name.

3 MR. SEIDEN: Well, that's true. I'm just saying
4 they must have known because they put it in the Presentence
5 Report.

6 THE COURT: I understand your point.

7 MR. SEIDEN: Thank you. And with that I submit.
8 Thank you very much.

9 THE COURT: And so that is going to be my sentence
10 in this case. I'm going to revoke supervised release and
11 sentence Mr. Youssef to 12 months in custody followed by four
12 years of supervised release.

13 Mr. Youssef shall make the proffer that was
14 discussed by Mr. Dugdale and to which Mr. Seiden agreed. And
15 I believe you asked for a recommendation that Mr. Youssef be
16 placed at a Southern California facility. And to the extent
17 possible, I will make that recommendation.

18 MR. SEIDEN: Thank you very much, your Honor.

19 MR. DUGDALE: Thank you, your Honor.

20 Just one quick thing. There were some additional
21 conditions of supervised release that the Probation Office
22 had requested in its letter.

23 THE COURT: Yes.

24 MR. DUGDALE: Rather than put the Court on the spot
25 with this, perhaps we will just submit a proposed order along

UNITED STATES DISTRICT COURT

ER871

1 those lines. And Mr. Seiden, if he has issues with those,
2 can object to those. But I'll deal with it however the Court
3 would like.

4 THE COURT: Well, I'll do either way. I'm sure I
5 have the letter here, and I'm sure I can deal with it now if
6 we want to wrap it up now. But if you would prefer to deal
7 with it and discuss it with one another, I'm happy to let you
8 do that.

9 MR. DUGDALE: I think that might be best just to
10 make sure that we have it all correct.

11 THE COURT: That sounds fine.

12 MR. DUGDALE: So we will submit that to the Court,
13 your Honor.

14 And the only other housekeeping matter is to -- the
15 Government will move to dismiss the remaining allegations
16 which are Allegations Four, Six, Seven, and Eight in the
17 interest of justice.

18 THE COURT: All right. That motion will be
19 granted.

20 And I think we should probably, in light of
21 Mr. Youssef's earlier comments, return to him the submission
22 that arrived yesterday.

23 MR. SEIDEN: Very good, your Honor.

24 THE COURT: Anything further, Counsel?

25 MR. SEIDEN: Thank you for accommodating us and

UNITED STATES DISTRICT COURT

ER872

1 allowing us to be heard today. Thank you. Your Honor, we
2 appreciate it.

3 MR. DUGDALE: Yes, thank you, your Honor.

4 THE COURT: Thank you.

5 THE CLERK: This Court is adjourned.

6 (Whereupon, at 1:53 p.m. , the proceeding
7 concluded.)

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UNITED STATES DISTRICT COURT

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CERTIFICATE OF REPORTER

COUNTY OF LOS ANGELES)
) ss.
STATE OF CALIFORNIA)

I, LEANDRA AMBER, OFFICIAL FEDERAL COURT REPORTER, REGISTERED
PROFESSIONAL REPORTER, IN AND FOR THE UNITED STATES DISTRICT
COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY
CERTIFY THAT PURSUANT TO SECTION 753, TITLE 28, UNITED STATES
CODE, THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE
STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS
IN CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL
CONFERENCE OF THE UNITED STATES.

DATE: _____

_____/s/_____
LEANDRA AMBER, CSR 12070, RPR
FEDERAL OFFICIAL COURT REPORTER

UNITED STATES DISTRICT COURT

ER874

EXHIBIT D

ER875

theguardian

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Innocence of Muslims participants sentenced to death in Egypt

Seven Egyptian Christians were tried in absentia for taking part in anti-Islam video produced in US that sparked violent protests

Reuters in Cairo
guardian.co.uk, Wednesday 28 November 2012 07:20 EST



An anti-US protest in Jammu, India, in September over the Innocence of Muslims video. Photograph: AFP/Getty Images

A court in Cairo has sentenced to death seven Egyptian Christians who were tried in absentia for participating in an anti-Islam video that prompted violent protests in many Muslim countries.

"The seven accused persons were convicted of insulting the Islamic religion through participating in producing and offering a movie that insults Islam and its prophet," said the judge, Saif al-Nasr Soliman.

The crude, low-budget video, Innocence of Muslims, produced privately in California, denigrated the prophet Muhammad, and its circulation online triggered anti-US protests and attacks on western embassies in September.

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EXHIBIT E

ER879

The New York Times

November 25, 2012

From Man Who Insulted Muhammad, No Regret

By **SERGE F. KOVALESKI** and **BROOKS BARNES**

LOS ANGELES — Fuming for two months in a jail cell here, Nakoula Basseley Nakoula has had plenty of time to reconsider the wisdom of making “Innocence of Muslims,” his crude YouTube movie trailer depicting the Prophet Muhammad as a bloodthirsty, philandering thug.

Does Mr. Nakoula now regret the footage? After all, it fueled deadly protests across the Islamic world and led the unlikely filmmaker to his own arrest for violating his supervised release on a fraud conviction.

Not at all. In his first public comments since his incarceration soon after the video gained international attention in September, Mr. Nakoula told The New York Times that he would go to great lengths to convey what he called “the actual truth” about Muhammad. “I thought, before I wrote this script,” he said, “that I should burn myself in a public square to let the American people and the people of the world know this message that I believe in.”

In explaining his reasons for the film, Mr. Nakoula, 55, a Coptic Christian born in Egypt, cited the 2009 massacre at Fort Hood, Tex., as a prime example of the violence committed “under the sign of Allah.” His anger seemed so intense over the years that even from a federal prison in 2010, he followed the protests against the building of an Islamic center and mosque near ground zero in New York as he continued to work on his movie script.

Until now, only the barest details were known about the making of the film that inspired international outrage. Initial reports made it seem as if the film had been thrown together in about a year.

But a longer, more intricate and somewhat surreal story emerges from interviews with Mr. Nakoula, church and law enforcement officials and more than a dozen people who worked on the movie — those who knew its real subject and those who were tricked into believing it was to be a sword-and-sandal epic called “Desert Warriors.” Together, they paint a picture of a financially desperate man with a penchant for fiction who was looking to give meaning and means to a life in shambles.

There is a dispute about how important the video was in provoking the terrorist assault on the American diplomatic mission in Benghazi, Libya, that killed the United States ambassador and three other Americans. Militants interviewed at the scene said they were unaware of the video until a protest in Cairo called it to their attention. But the video without question led to protests across the globe, beginning in Cairo and spreading rapidly in September to Yemen, Morocco, Iran, Tunisia, Sudan, Iraq, Pakistan, Lebanon, Indonesia and Malaysia.

The making of the film is a bizarre tale of fake personas and wholesale deception. And as with almost everything touched over the years by Mr. Nakoula — a former gas station manager, bong salesman, methamphetamine ingredient supplier and convicted con man — it is almost impossible to separate fact from fabrication.

A few years ago, Mr. Nakoula told some of the crew members he had gathered, supposedly to make “Desert Warriors,” that the project would have to be put off. He had cancer. Treatment was needed, far away, and they would not be able to reach him. His family shared a similar story with church officials.

Mr. Nakoula, it turns out, was not going away for cancer treatment, although the time did overlap with the prison sentence for bank fraud, which the crew knew nothing about. (Mr. Nakoula pleaded guilty this month to violating his supervised release in that case and received a one-year sentence.)

He claims that he only wrote the film — five versions of the script — and served as a “cultural consultant.” One of Mr. Nakoula’s sons, Abanob Basseley Nakoula, 21, said in an interview that his father had written the script in Arabic and then translated it into English. The son said he helped him with grammar.

But Mr. Nakoula, who described himself to some cast members as the writer and producer, explained to a confidant that his plan was to fool actors into thinking they were making a movie built around an ancient tribal villain named George, dubbing in the name “Muhammad” later whenever anybody said “George.”

As early as 2008, he had cobbled together a 20-page treatment for a film he wanted to call “The First Terrorist.”

In Mr. Nakoula’s responses to questions from The Times, conveyed through his lawyer, Steve Seiden, he had no second thoughts about the way he had handled the cast. “They had signed contracts before they went in front of any camera, and these contracts in no way prevented changes to the script or movie,” he said.

A Slippery Identity

Mr. Nakoula noted that the head of Media for Christ, Joseph Nassralla Abdelmasih, was “a friend for five years.” Mr. Abdelmasih attended the 2010 protests against the Islamic center near ground zero. Other contacts in the world of anti-Islam activism would also play pivotal roles. Helping to publicize the film were Morris Sadek and Elaia Basily — activist Copts living in Northern Virginia — and Terry Jones, the Florida preacher whose own Koran burnings had stirred violence abroad.

What he did not mention at the time, however, was that in 2009, according to court records, he changed his name yet again, this time to Ebrahem Fawzy Youssef. (His lawyer said Mr. Nakoula was unaware until recently that the latest change had been finalized.)

He claimed during production that the budget for the film was \$5 million, raised mainly from Jewish donors. Actually, it cost no more than \$80,000, apparently raised through his second ex-wife's Egyptian family and donations from other Copts, according to a person who discussed the financing with him.

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All that has been seen on the Web is the 14-minute YouTube trailer, which by the time it hit the Internet in July was titled “Innocence of Muslims.”

And Coptic Church officials said they considered Mr. Nakoula an unlikely candidate for the kind of religious zeal behind “Innocence of Muslims” because he had attended services so infrequently. But Mr. Nakoula said fervor and witnessing persecution are what drove him to create the film.

In his written responses to questions, Mr. Nakoula reeled off “atrocities” by Muslims that went back many years and formed his views, focusing on shootings, a bombing and the torture of his fellow Copts. After the Fort Hood massacre, in which an Army psychiatrist with ties to Muslim extremism has been charged, “I became even more upset and enraged,” he said.

From Prison to Studio

11/29/2012 11:14 AM
ER883

Mr. Nakoula declared bankruptcy in 2000. By then he was a felon: a police sting caught him trading crates of a methamphetamine ingredient for \$45,000 in cash. He was sentenced to one year in prison but did community service instead. A little over a decade later, Mr. Nakoula, while at work on his movie, was arrested for bank fraud. He was behind bars for almost 21 months before getting out in the summer of last year.

"He said it might have been a blessing to go to prison because he had time to work on the script," his son said.

Mr. Nakoula's supervised release barred him from using aliases. But he resumed work on his movie under the name Sam Baccil, said Jimmy Israel, who assisted with preproduction. Mr. Israel, who still thought Mr. Nakoula had been away battling cancer, placed casting notices on Backstage.com. One advertised 11 roles that included "George: male, 20-40, a strong leader, romantic, tyrant, a killer with no remorse, accent." Mr. Israel said Mr. Nakoula told him that "Muhammad would be named George to mislead the actors."

Mr. Nakoula found his director through a circuitous route. During the time of his bank fraud scheme, he rented five offices in a building owned by a man named Shlomo Bina, who, as it happened, had once aspired to a movie career, too, crossing paths with Mr. Roberts, the director. Chatting one day, Mr. Bina pointed him toward Mr. Roberts, whose real name is Robert Alan Brownell, records show. Attempts to reach Mr. Roberts through lawyers were unsuccessful.

A few Coptic immigrants in the United States have built media outlets with the help of programming that is anything but favorable toward Islam. One of them is Mr. Abdelmasih of Media for Christ. Not only did he provide Mr. Nakoula with 10 days of free studio space, but he also helped get the promotion going for the YouTube trailer by contacting Mr. Sadek in Virginia.

Mr. Sadek wrote in an e-mail that "my friend," Mr. Abdelmasih, "told me that Mr. Nakoula had created a movie about the Copts' persecution in Egypt." Mr. Sadek then publicized the YouTube trailer on his Web site and to his contacts. Mr. Basily, the activist, also spread word about the trailer using social media. Mr. Sadek also put Mr. Nakoula in touch with another important promotional partner: Mr. Jones, the Florida pastor.

Mr. Abdelmasih said Mr. Nakoula called one day to ask to use his facility. "He said to me the movie was about persecution of Christians by the government, combined with radical Muslims," Mr. Abdelmasih recalled in an interview.

'Not Tech-Savvy'

DECLARATION

ER886

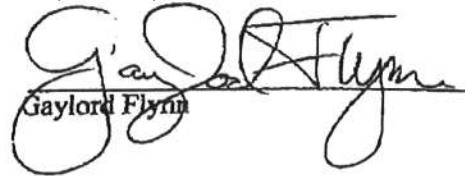
DECLARATION OF GAYLORD FLYNN

1
2 1. I am an actor who appeared in the film originally titled *Desert Warrior* and posted
3 to YouTube with the title *Innocence of Muslims*. I have personal knowledge of the facts set forth
4 in this Declaration and, if called as a witness, could and would testify competently to such facts
5 under oath.

6 2. I have reviewed the two documents attached hereto as Exhibit A. These documents
7 do not look familiar to me. I do not believe that I signed documents like this in connection with
8 the film "Desert Warrior." I also notice that on the "personal release" document, the picture is
9 mis-titled "Desert Warriors," instead of Desert Warrior, which was the working name of the film.
10 If I had signed documents like this, I would remember it.

11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct.

13 Executed on this 26th day of November, 2012, at La Quinta, California.

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16 Gaylord Flynn

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DECLARATION OF GAYLORD FLYNN
CV 12 8315 (VBKx)

ER887

DECLARATION

ER888

DECLARATION OF CINDY LEE GARCIA

I, Cindy Lee Garcia, declare:

1. I am over eighteen years of age and the Plaintiff in this action. I make this declaration based on my own personal knowledge, and if called as a witness, would testify competently as follows:

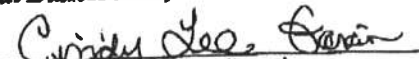
2. I am an actor who appeared in the film originally titled *Desert Warrior* and posted to YouTube with under title *Innocence of Muslims*. I am the Plaintiff in this action. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

3. I have reviewed the declaration of Mark Basseley Youssef and the attachments. The handwriting on those pages is not mine. I did sign a document, which involved my getting IMDB credit for the film "Desert Warrior." During the filming of "Desert Warrior," I was presented with a single sheet of paper, which I insisted upon because my main motivation in participating in this film as a new actress, was to obtain IMDB credits. That single piece of paper also referred to payment to me.

4. Mr. Alger's declaration, where he talks about what Mr. Youssef (although I knew him as "Sam Bacile"), is totally inaccurate. He says that Mr. Youssef would say that I worked for two hours on a single day. This is false. In fact, I worked two full days on the set of "Desert Warrior." Mr. Alger claims that Mr. Youssef would say that I was paid \$75.00. This is also false. I was paid \$75.00 the first day, either \$125 or \$150 for the second day. Later, I was paid an additional \$150 for some voice work.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is truthful and accurate.

Executed on this 30th day of November, 2012, at Bakersfield, California.


Cindy Lee Garcia

DECLARATION OF CINDY LEE GARCIA
CV 12 8315 (VBKx)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 11900 Olympic Boulevard, Suite 730, Los Angeles, California 90064.

On November 30, 2012 I served the following document(s) described as:

**PLAINTIFF'S OBJECTION TO AND REQUEST TO STRIKE
DECLARATIONS OF TIM ALGER AND MARK BASSELEY YOUSSEF;
DECLARATIONS OF M. CRIS ARMENTA, GAYLORD FLYNN, CINDY
LEE GARCIA AND JIM BLANCO**

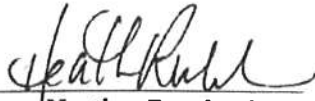
on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**Timothy L. Alger
Perkins Coie LLP
3150 Porter Drive
Palo Alto, CA 94304-1212
(by mail and courtesy email)**

**Nakoula B. Nakoula aka
Mark Basseley Youssef
Metropolitan Detention Center
Inmate #56329-112
180 N. Los Angeles St.
Los Angeles, CA 90012
(by mail only)**

✓ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, California, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

Executed on November 30, 2012 in Los Angeles, California.


Heather Rowland

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 12-08315-MWF (VBKx)**

Date: **November 30, 2012**

Title: **Cindy Lee Garcia -v- Nakoula Basseley Nakoula, et al.**

PRESENT: HONORABLE MICHAEL W. FITZGERALD, U.S. DISTRICT
JUDGE

Rita Sanchez
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS (IN CHAMBERS): ORDER DENYING REQUEST TO
CROSS-EXAMINE [35]

On November 29, 2012, Plaintiff Cindy Lee Garcia filed a Notice of Request Under Central District Local Rule 7-8 to Cross-Examine Declarants Submitted by Defendants Google Inc. and YouTube LLC (the "Request"). (Docket No. 35). The hearing on Garcia's motion for a preliminary injunction currently is scheduled for Monday, December 3, 2012. (*See* Docket No. 32). Garcia requests that at the hearing she be permitted to cross-examine two declarants, whose declarations were submitted on November 28, 2012. (*See* Docket Nos. 33, 34).

Putting aside the timing and procedural issues raised by the filing of these two declarations and the Request, Local Rule 7-8 states that "[n]o declaration of a declarant with respect to whom such a request has been granted shall be considered unless such declarant is personally present and available at the hearing for such cross-examination as the Court may permit." *Id.*

The Court will not consider these two declarations in deciding Garcia's motion for a preliminary injunction.

The Request (Docket No. 35) is DENIED.

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 12-08315-MWF (VBKx)**

Date: **November 30, 2012**

Title: **Cindy Lee Garcia -v- Nakoula Basseley Nakoula, et al.**

**PRESENT: HONORABLE MICHAEL W. FITZGERALD, U.S. DISTRICT
JUDGE**

Rita Sanchez
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS (IN CHAMBERS): **ORDER DENYING PLAINTIFF
GARCIA'S MOTION FOR
PRELIMINARY INJUNCTION [12]**

On October 17, 2012, Plaintiff Cindy Lee Garcia filed an Ex Parte Application for a Temporary Restraining Order and an Order to Show Cause Re Preliminary Injunction, and Order of Impoundment (the "Application"). (Docket No. 12). On October 18, 2012, Garcia's request for a temporary restraining order was denied, and the Application was construed as a motion for a preliminary injunction. (*See* Docket No. 15). This matter is now before the Court on Garcia's motion for preliminary injunction (the "Motion"). (*See id.*) Defendants Google Inc. and YouTube, LLC have filed an Opposition, and Garcia has filed a Reply. (Docket Nos. 22, 27).

The Court has read and considered the papers filed on this Motion and deems the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15. Accordingly, the hearing set for **December 3, 2012**, is removed from the Court's calendar.

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 12-08315-MWF (VBKx)**

Date: **November 30, 2012**

Title: **Cindy Lee Garcia -v- Nakoula Basseley Nakoula, et al.**

GmbH & Co., 571 F.3d 873, 877 (9th Cir. 2009) (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008)).

Furthermore, this injunction would require affirmative conduct by Defendants, *i.e.* Defendants' immediate action in regard to the Film. Therefore, Garcia's Motion "is subject to heightened scrutiny and should not be issued unless the facts and law clearly favor" her as the moving party. *See Dahl v. HEM Pharms. Corp.*, 7 F.3d 1399, 1403 (9th Cir. 1993) (requiring defendant to provide drug to patients).

Garcia alleges that Defendants have infringed her purported copyright in a trailer for a film (the "Film"). (*See generally* Compl. (Docket No. 1)). The Film was posted for public viewing on YouTube on July 2, 2012 – five months ago. Given this five-month delay, Garcia has not demonstrated that the requested preliminary relief would prevent any alleged harm. *Seto v. Thielen*, Civil No. 10-00351 SOM-BMK, 2010 WL 2612603, at *2 (D. Haw. June 28, 2010) ("Given Plaintiffs' allegation that the septic system is currently leaking raw sewage into Kaneohe Bay, the requested injunction would not necessarily prevent irreparable harm to Plaintiffs, as the leaking of the raw sewage would continue with or without [the defendant's] presence at the park.").

Nor has Garcia established a likelihood of success on the merits. Even assuming both that Garcia's individual performance in the Film is copyrightable and that she has not released this copyright interest, the nature of this copyright interest is not clear. Nor is it clear that Defendants would be liable for infringement.

As was the case in *Aalmuhammed v. Lee*, 202 F.3d 1227 (9th Cir. 2000), the Film "is a copyrightable work, and it is undisputed that the movie was intended by everyone involved with it to be a unitary whole." *Id.* at 1231. Additionally, a copyright in a work "vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work." 17 U.S.C. § 201(a).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. CV 12-08315-MWF (VBKx)

Date: November 30, 2012

Title: Cindy Lee Garcia -v- Nakoula Basseley Nakoula, et al.

Garcia does not argue that she is the sole author of the Film, nor does she argue that the Film was a joint work of which she was a co-author. According to the United States Supreme Court, the “author” is the “person to whom the work owes its origin and who superintended the whole work.” *Aalmuhammed*, 202 F.3d at 1233 (citing *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 61, 4 S. Ct. 279, 28 L. Ed. 349 (1884)). By Garcia’s own allegations and argument, she does not meet this standard with respect to the Film. Furthermore, Garcia concedes that she does not have joint authorship over the Film or joint ownership of the copyright in the Film. (See Reply at 12 n.11).

Therefore, Garcia appears to argue only that she owns the copyright in her performance within the Film. Even if this copyright interest were cognizable and proven, by operation of law Garcia necessarily (if impliedly) would have granted the Film’s author a license to distribute her performance as a contribution incorporated into the indivisible whole of the Film. See *Effects Assocs., Inc. v. Cohen*, 908 F.2d 555, 558-59 (9th Cir. 1990) (“[The plaintiff] created a work at defendant’s request and handed it over, intending that defendant copy and distribute it. . . . Accordingly, we conclude that [the plaintiff] impliedly granted nonexclusive licenses to [the defendant] and his production company to incorporate the special effects footage into [the film]” and then “to distribute the film”). Garcia has introduced no evidence to the contrary.

Accordingly, Garcia’s Motion (Docket No. 12) is DENIED.

Given the discussion above, the Court need not reach the issues of the balance of equities and the public interest.

IT IS SO ORDERED.

1 M. Cris Armenta (SBN 177403)
2 THE ARMENTA LAW FIRM APC
3 11900 W. Olympic Boulevard, Suite 730
4 Los Angeles, CA 90064
5 Tel: (310) 826-2826 x 108
6 Facsimile: (310) 826-5456
7 Email: cris@crisarmenta.com

8 Credence E. Sol (SBN 219784)
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10 86300 Chauvigny
11 France
12 Tel: 06 74 90 22 08
13 Email: credence.sol@sol-law.com

14 Attorneys for Plaintiff
15 Cindy Lee Garcia

16 UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 CINDY LEE GARCIA, an
19 individual,

20 Plaintiff,

21 vs.

22 NAKOULA BASSELEY
23 NAKOULA, an individual also
24 known as SAM BACILE, MARK
25 BASSELEY YOUSSEF,
26 ABANOB BASSELEY
27 NAKOULA, MATTHEW
28 NEKOLA, AHMED HAMDY,
AMAL NADA, DANIEL K.
CARESMAN, KRITBAG
DIFRAT, SOBHI BUSHRA,
ROBERT BACILY, NICOLA
BACILY, THOMAS J. TANAS,
ERWIN SALAMEH, YOUSSEFF
M. BASSELEY, and/or MALID
AHLAWI; GOOGLE, INC., a
Delaware Corporation;
YOUTUBE, LLC, a California
limited liability company, and
DOES 1 through 10, inclusive.

Defendants.

Case No. CV12-8315-MWF(VBKx)

**DECLARATION OF JAMES A.
BLANCO IN SUPPORT OF
OBJECTION AND REQUEST TO
STRIKE DECLARATIONS OF
TIM ALGER AND MARK
BASSELEY YOUSSEF**

DECLARATION OF JAMES A. BLANCO IN SUPPORT OF OBJECTION AND REQUEST
TO STRIKE DECLARATIONS OF ALGER AND YOUSSEF
CV 12 8315 (VBKx)

ER895

DECLARATION OF JAMES A. BLANCO

1 I, James A. Blanco declare as follows:

2 1. I am James A. Blanco, all of the facts set forth in this declaration are of my
3 own personal knowledge and if called as a witness I could and would competently
4 testify as to the following:

5 **EXAMINER'S PROFESSIONAL BACKGROUND AND WORK HISTORY:**

6 2. I am a Forensic Document Examiner and I maintain a full time practice in
7 Forensic Document Examinations. My business addresses are 55 New Montgomery
8 Street, Suite 712 San Francisco California 94105 and 655 North Central Avenue 17th
9 Floor, Glendale California 91203 and 1629 K Street N.W. Suite 300 Washington,
10 DC 20006. I have been in the field of Forensic Document Examinations for over
11 twenty five years. My training, experience and qualifications as a Forensic Document
12 Examiner are set forth in my three page curriculum vitae which is attached and
13 incorporated hereto as EXHIBIT 1. My training included review of such notable
14 cases as the Zodiac Killer and the Howard Hughes Will.

15 3. I formally subscribe to the Collaborative Testing Services tests which are
16 controlled tests with known results. These are the same tests given to forensic
17 document experts in government laboratories that are accredited by ASCLAD
18 (American Society of Crime Laboratory Directors). I continue to pass these ongoing
19 tests maintaining a zero personal examiner error rate. In my government positions I

20 DECLARATION OF JAMES A. BLANCO - 1

ER896

1 also accurately passed all of the "CTS" tests.

2 4. I was formerly commissioned with the Federal Bureau of Alcohol, Tobacco
3 and Firearms working as a full time Forensic Document Examiner employee in their
4 Western Regional Forensic Science Crime laboratory. In this position I worked cases
5 for the numerous field offices ("Posts of Duty") in the United States and in the U.S.
6 Protectorates and Territories of the Special Agents of ATF which also occasionally
7 involved joint investigation cases involving DEA and FBI questioned documents
8 cases. I left this position on good terms for a full time Forensic Document Examiner
9 employee position with the California Department of Justice where I examined cases
10 for hundreds of government and law enforcement agencies throughout the State of
11 California. I left this position on good terms to enter private practice as a Forensic
12 Document Examiner and have been in full time private practice now for fifteen years.

13 5. In addition to civil casework, I also maintain the exclusive contract with the
14 California Secretary of State's Office for Forensic Document services wherein I
15 service their Forensic Document casework regarding voting fraud cases, and I also
16 work cases for numerous other government agencies both inside and outside of
17 California including the Montana Division of Criminal Investigation, the Federal
18 Defenders offices in Anchorage, Florida, Puerto Rico, and other agencies.

19 6. I have rendered expert opinions regarding questioned documents on over
20

DECLARATION OF JAMES A. BLANCO - 2

ER897

1 7,000 occasions. I have qualified and testified as an expert witness concerning
2 questioned documents in excess of two hundred times in both Federal and Superior
3 Courts in numerous States and also abroad in Mexico, Singapore and the High Court
4 of South Africa. I have never been prevented from testifying in any venue. Attached
5 hereto as EXHIBIT 2 is a list of my testimony over the past four years.

6 7. My services are charged at \$250.00 per hour with the exception of court or
7 deposition appearances/testimony which are charged at \$300.00 per hour.

8 8. I received from the law offices of Cris Armenta the following documents for
9 examination which are described as follows:

10 **DESIGNATION OF DOCUMENTS BEARING QUESTIONED WRITINGS:**

11 EXHIBIT 3 Personal Release dated 8/9/11 (Doc. 33 Page ID#:871)

12 A copy of this questioned document is attached hereto as **EXHIBIT 3**

13 EXHIBIT 4 Two-page Cast Deal Memo dated 8/9/11 (Doc. 33 Page ID#872 & 873)

14 A copy of this questioned document is attached hereto as **EXHIBIT 4.**

15 **DESIGNATION OF KNOWN SPECIMEN DOCUMENTS:**

16 EXHIBIT 5 Numerous documents bearing signatures and, or handwritings

17 attributed to Cindy Garcia are attached collectively hereto as **EXHIBIT 5.**

18 **ASSIGNMENTS:**

19 9. I was asked to examine and compare the "Cindy Garcia" signatures and other
20

DECLARATION OF JAMES A. BLANCO - 3

1 handwritings on the EXHIBIT 3 and EXHIBIT 4 documents to the EXHIBIT 5
2 handwritings to determine whether or not Cindy Garcia was the author of the
3 handwritings on EXHIBIT 3 and, or on EXHIBIT 4. I was advised that the
4 "Matthew mta" handwritings were not a matter of investigation so my analysis did
5 not include these handwritings on EXHIBIT 3 or on EXHIBIT 4.

6 **EXAMINATIONS CONDUCTED:**

7 10. The questioned and known handwritings were examined in detail.
8 Comparisons were made of line quality, letter forms and of letter proportions to
9 determine similarities and/or differences between the questioned and known
10 handwritings. Copies of these documents were made and notes were taken during
11 the examination processes. ASTM Standard E-2290 was used as a guide in the
12 examination processes. This guide is titled, "Standard Guide for Examination of
13 Handwritten Items" and was developed by one of the scientific working group
14 committees of the American Society for Testing and Materials (ASTM) which has
15 established standard protocols for most of the forensic sciences including pathology,
16 fingerprints, DNA, firearms and tool marks, just to cite a few examples.

17 **ANALYSIS:**

18 11. About twenty-five pages containing known specimen writings of Cindy Garcia
19 were presented for examination. This provided for a meaningful specimen group
20

DECLARATION OF JAMES A. BLANCO - 4

ER899

1 which sufficiently revealed the writing variations of Cindy Garcia, the writer of the
2 EXHIBIT 5 materials. Detailed handwriting comparisons revealed numerous
3 persistent difference in handwriting features in the comparison of the handwritings
4 on EXHIBIT 3 and EXHIBIT 4 to the known handwritings of Cindy Garcia, the
5 author of the EXHIBIT 5 handwriting samples. For example,

6 -The signatures by Cindy Garcia are more cursive and stylized in nature than
7 the questioned signatures on EXHIBIT 3 and on EXHIBIT 4.

8 -The letters "r" of the questioned writings are more hand printed than cursive
9 in nature. Further, the "r"s of the known writings are more
10 elongated and vertical than the "r"s on the questioned documents.

11 -The letters "C" are different in form.

12 -The axis of the "d" in "Cindy" is oriented differently in the comparisons
13 between the questioned and known writings.

14 -The letters "a" by Cindy Garcia are more stylized than those observed on
15 EXHIBIT 3 and EXHIBIT 4.

16 -The "rc" connections of the questioned "Garcia" names are different in their
17 connection strokes.

18 Numerous additional differences were noted in the comparisons between the
19 questioned and known writings by Cindy Garcia.

20
DECLARATION OF JAMES A. BLANCO - 5

ER900

1 RESULTS OF EXAMINATIONS—OPINIONS:

2 12. Given all of the observed handwriting differences, it was determined that the
3 handwriting features observed on the questioned documents did not represent the
4 natural, normal, nor genuine handwriting characteristics of Cindy Garcia as
5 demonstrated by her EXHIBIT 5 handwriting samples. Consequently, Cindy Garcia
6 *is eliminated* as the writer of the handwritings on EXHIBIT 3 and on EXHIBIT 4.
7 An "*elimination*" is a term of art in Forensic Document Examination opinion
8 rendering and represents the highest degree of confidence expressed by document
9 examiners in handwriting comparisons. That is, the examiner has no reservations
10 whatever, and the examiner is certain, based on evidence contained in the
11 handwriting, that the writer of the known material did not write the materials in
12 question (ASTM—*American Society for Testing and Materials* Designation: E
13 1658 – 08 Standard Terminology for Expressing Conclusions of Forensic Document
14 Examiners).

15 I declare under penalty of perjury under the laws of the State of California that
16 the foregoing is true and correct to the best of my knowledge.

17 Executed this 30th day of November 2012, at San Francisco, California.

18 
19 JAMES A. BLANCO

20

DECLARATION OF JAMES A. BLANCO - 6

ER901

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

ER902



BLANCO & Associates Inc.
Forensic Document Examiners

San Francisco Office
55 New Montgomery Street, Suite 712
San Francisco, CA 94105
Phone (415) 618-0068

Washington D.C. Office
1629 K Street N.W. Suite 300
Washington, DC 20006
Phone (202) 821-1822

Los Angeles Office
655 N. Central Ave 17th FL
Glendale, CA 91203
Phone (818) 545-1155

CURRICULUM VITAE of JAMES A. BLANCO

AFFILIATIONS:

Member: American Society for Testing and Materials (ASTM)
Participant: Subscribe to Proficiency Testing by the Collaborative Testing Services Inc.
Formally tested twice a year (controlled tests with known results) by the Collaborative Testing Services, Inc.—Test results reveal a
ZERO PERSONAL EXAMINER ERROR RATE
Participant: in ST²AR Network—Skill-Task Training Assessment & Research

PROFESSIONAL ACHIEVEMENTS:

- Testified as an expert in over **200** trials.
- Provided over **7000** expert opinions.

PROFESSIONAL HISTORY:

6/88 **Blanco & Associates, Inc.**
to Title – Forensic Document Examiner / Examiner of Questioned Documents
Present Duties - Examination and comparison of handwriting and mechanical impressions for the purpose of suspect identification or elimination. Expert witness testimony. Presentations of Forensic Document Examinations pertaining to civil and criminal litigation.

Since 1998 Exclusive Forensic Document Expert used by the California Secretary of State's office for their voting fraud cases.

11/94 **California Department of Justice**
to Bureau of Forensic Services
9/96 4949 Broadway - Sacramento, CA 95820
Laboratory Accreditation - This Laboratory is accredited by the American Society of Crime Laboratory Directors (ASCLAD)
Title - Examiner of Questioned Documents
Duties - Examination and comparison of handwriting and mechanical impressions for the purpose of suspect identification or elimination. Expert witness testimony. Participated in the proficiency testing program and peer review required by the ASCLAD Accreditation Board.

PROFESSIONAL HISTORY (Continued):

1/92 **U.S. Treasury Department**
to Federal Bureau of Alcohol, Tobacco and Firearms
9/94 Western Regional Forensic Science Laboratory
355 North Wiget Lane, Walnut Creek, California 94598
Title - Document Examiner
Duties- Examination and comparison of handwriting and mechanical impressions for the purpose of suspect identification or elimination in criminal investigations in the Western States. Testified as prosecution expert witness in Oklahoma, Texas, New Mexico, Arizona, Alaska and California. Participated in the proficiency testing program and peer review of the American Society of Crime Laboratory Directors.

1/89 **Sacramento County Sheriff - Detectives Division**
to 711 G. Street Room 308 - Sacramento, California 95814
1/92 Title - Questioned Document Examiner (on County contract)
Duties- Examined case work for the various Bureaus of the Sacramento County Sheriff's department including report writing and expert witness court testimony. Also responded to requests by local Judges and Deputy District Attorneys to perform examinations, report on findings and testify.

6/85 **Completed two years of apprenticeship training** in forensic documents under
to T.H. Pascoe who worked for the California Department of Justice in their
1/89 Questioned Document Section for 30 years.

TECHNICAL TRAINING COURSES:

ST²AR Network—Skill-Task Training Assessment & Research,
Canon Photocopier, Facsimile and New Technology Workshop
Canon USA training center in Atlanta Georgia April 28-29, 2008

Forensics Photoshop course,
EEI Communications, San Francisco CA December 15-16, 2006

Printing Process Examinations, Infrared Examinations,
American Board of Forensic Document Examiners Workshop, Las Vegas, November 7-10 2005

Altered Identification Documents, sponsored by the California State Department of Justice
Criminalistics Institute March 1995

Fundamentals of Document Examinations For Laboratory Personnel,
FBI Academy, Quantico, Virginia- July 12-23 1993

Symposium on Fluorescence Techniques in Questioned Documents, sponsored by the California State
Department of Justice Criminalistics Institute Feb. 1992

Paper Knowledge Workshop, by Mead Paper Corp., Denver, Colorado Oct. 1992

ACCOMPLISHMENTS:

Qualified as an Expert in Federal, Superior and Court Martial Courts

Publications:

Journal: Identifying Documents Printed by Dot Matrix Computer Printers. Forensic Science International, Elsevier Scientific Publishers Ireland Ltd.

Published Books:

- * Business Fraud- Know It and Prevent It, Humanomics Publishing, 2001
- * Identity Theft Prevention, (self published, 2001)

Speaker- Presentations given to:

- * Association of Certified Fraud Specialists- Sacramento, CA July 12th, 2011
Eight hour block of training re: Forensic Document Evidence and investigations
- * Association of Certified Fraud Specialists- National Fraud Conference, Dallas, May 2011
Forged Documents In An Electronic World
- * Association of Forensic Document Examiners Annual Conference, Phoenix AZ, October 2010
- * National Association of Document Examiners Annual Conference, Portland, OR, May 2010
- * Association of Certified Fraud Specialists- National Fraud Conference, San Diego, Oct. 2009
Forged Documents In An Electronic World
- * The Southwestern Association of Forensic Document Examiners:
Identifying Documents Printed by Dot-Matrix Computer Printers
Tucson, Arizona - April, 1989.
Distinguishing Features of Color Laser Copiers
Long Beach, CA - October, 1990.
A Case Study in Forensic Ethics Las Vegas, Nevada - April, 1991.
Counterfeited Documents Phoenix, Arizona - October, 1991.
Photocopied Tracings San Diego, CA - April, 1992
- * The American Society of Questioned Document Examiners:
Identifying Documents Printed by Dot-Matrix Computer Printers, Orlando, Florida- August, 1991
New Trends in Xerographic Technology Milwaukee, Wisconsin August, 1992

Numerous additional Lectures and Presentations given to State and Federal Law Enforcement, Legal, Banking and Business organizations.

Advisor to POST (California Commission on Peace Officer Standards and Training): As a subject matter expert in Forensic Documents, I was the only Document Examiner invited to San Diego to serve on the curriculum committee of the California Commission on POST, to design a Fraud/Questioned Document Course.

EDUCATION:

Bachelor of Arts, 1975, California State University, Sacramento, CA
Master of Divinity, 1978, Western Theological Seminary, Portland, OR

EXHIBIT 2

EXHIBIT 2

EXHIBIT 2

ER906



BLANCO & Associates Inc.
Forensic Document Examiners

San Francisco Office
55 New Montgomery Street, Suite 712
San Francisco, CA 94105
Phone (415) 618-0068

Washington D.C. Office
1629 K Street N.W. Suite 300
Washington, DC 20006
Phone (202) 821-1822

Los Angeles Office
655 N. Central Ave 17th FL
Glendale, CA 91203
Phone (818) 545-1155

TESTIMONY APPEARANCES

02/10/09 Los Angeles Superior Court, Hill Street
Hon. Maren E. Nelson, Dept 60
Marva v. Williams
Attorney George Seidi

02/23/09 Las Vegas, Nevada
Hon. Valerie Adair
Dept. 21
Re: Cameo Model & Talent Agency, LLC v. The Agency, LV, et al.
Attorney Gus W. Flangas, Esq.

04/03/09 Los Angeles Superior Court, Hill Street
Hon. Charles F. Palmer
Dept 33
Re:
Attorney Rodney Bell

05/06/09 Los Angeles Superior Court, Hill Street
Hon. O'Donnel
Dept. 37
Re: Sarvary vs. Voges
Attorney Richard S. Van Dyke

05/22/09 Yolo County Superior Court, Woodland, CA
Hon. Timothy Fall
Dept. 2
Re: Dev matter
Attorney Michael Rothchild

06/25/09 Calaveras County Superior Court, San Andreas, CA
Hon. Martin
Dept. 6
Re: Adams v. Berghouse, et al.
Case #CV34998
Attorney Reg J. Lormon

07/07/09 US District Court Central District California
Hon. Fairbank
Dept. 9
Re: Amy Alcini, et al. v. Northwestern Mutual Life Insurance Co., et al. (Kay Cole, deceased)
Case # CV-08-02889-VBF (AJWx)
Attorney Rafael Bernardino, Jr.

07/13/09 Unites States Immigration Court, San Francisco
Hon. Robert Yeargin
Courtroom 6
Re: Amarjit Singh
Attorney Arwen Swink, Esq.

ER907

08/28/09 CA Superior Court, Glendale (LA area)
Hon. Matz
Dept. E
Re: Toni Stutson v. Susane Savage
Michael G. Steiniger, Esq.

09/24/09 Deposition, Irvine CA
Re: Century 21 Landmark Properties; Alan Fasnacht, Lynn Fasnacht
Deposed by
Defended by Charles Shelton, Esq.

09/29/09 Deposition, San Diego CA
Re: Somo v. Chevron
Deposed by John H. Reaves, Esq.
2488 Historic Decatur Rd, Ste 200
San Diego, CA 92106
Defended by Julie Trotter, Esq.

10/08/09 Sacramento Superior Court, CA
Jury Trial
Hon. Judge David Brown
Dept. 17
Re: People v. Embra
For the Defense, Maura De La Rosa

11/12/09 Superior Court of California, County of Santa Clara
Deposition (in Los Altos, CA)
Re: Marriage Of Ebrahimi
Judge Berra
Deposed by Abbas Hadjian, Esq.
Defended by Rod Firoozye, Esq. (for Plaintiff Armin Ebrahimi)

11/19/09 Los Angeles Superior Court, CA (Hill Street)
Bench Trial
Dept 9, Judge Goetz
Re: Garrison
Stephen Moeller

12/14/09 Santa Monica, CA
Deposition
Re: Garrison
Defended by Stephen Moeller

12/17/09 Superior Court of California, County of Santa Clara
San Mateo, CA
Judge Berra (San Mateo)
Re: Marriage Of Ebrahimi
Rod Firoozye for Armin Ebrahimi

12/18/09 Deposition testimony in San Francisco re: 3EB Case

01/14/10 Los Angeles Superior Court, CA (111 Hill Street)
Bench Trial
Dept 9, Judge Goetz
Re: Garrison
Stephen Moeller

02/16/10 Oceanside, CA
Deposition
Re: City of Oceanside v. Judd

03/05/10 Los Angeles Superior Court, CA (111 Hill Street)
Bench Trial
Dept 9, Judge Goetz
Re: Garrison
Stephen Moeller

03/09/10 San Jose, CA
Deposition
Re: Stanley Doty, Trustee of JDP Trust v. Cava Valley Roofing, et al.
Shawn E. Cowles, Esq.

04/09/10 Irvine, CA
Deposition
Re: Martinez v. Williams
Warren Miller

04/12/10 San Francisco, CA
Jury Trial
Hon. Tomar Mason, Courtroom 606
Re: Julius Castle
Jay T. Jambeck, The Schinner Law Group

05/11/10 Emeryville, CA
Deposition
Re: Shirley Hwang v. Winston Lum
Nancy Davis, Esq. of Holme Roberts & Owen LLP

05/12/10 Santa Monica, CA
Re: Nunnari v. Cecchi Gori Pictures
Erica E. Hayward, Esq.

05/21/10 San Francisco, CA
Deposition
Re: Beijing Tong Ren Tang (USA), Corp. vs. TRT USA Corp et al
Jing James Li, Ph.D. of Greenberg Taurig LLP

05/24/10 San Francisco, CA
Deposition
Bradley J. Jameson, Esq.
Re: Sean C. McKean, Shawn P. McIlvenna v. Stephen E. Lawrence, Sophie Gasparatos

08/06/10 Santa Ana, CA
Federal Courthouse
Hon. Albert
Re: Petition of William E. Preston
Larry Halperine, Esq.

08/13/10 San Francisco, CA
Deposition
Re: Miller vs. California Pacific Medical Center
Foley & Lerner LLP
Eileen R. Ridley, Esq. / (Kristy Marino)

08/16/10 San Jose, CA
Federal Courthouse
Dept 6
Hon Ronald M. Whyte
Re: Beijing Tong Ren Tang (USA), Corp. vs. TRT USA Corp et al
Jing James Li, Ph.D. of Greenberg Taurig LLP

08/27/10 Los Angeles Superior Court, CA (111 Hill Street)
Dept 39, 4th floor
Hon. Michal C. Solner
Re: Coliseo Housing Partnership v. POZ Village Development, Inc.
J. Grant Kennedy, Esq.

09/21/10 Nevada County Superior Court (Nevada City, CA)
Dept. 6
Re: The Estate of Don Cunningham, Nevada County Superior Court Probate Case No. P14621
Hon. Thomas M. Anderson
R. Ellis Harper, Esq.

11/15/10 Down town Los Angeles, CA
Arbitration
Re: Ron Sahni
Attorney Robert L. Kinkle

11/17/10 Riverside, CA
Deposition Re: Gillis estate matter
Attorney Rex Edwards

11/26/10 Bremmerton, WA
Arbitration
Re: Boston Pacific Matter
Michael White, Esq. Patton Boggs LLP

12/02/10 Roseville, CA
Deposition
Re: Marquez et al. vs. Van Dyke, et al; Thielke et al. vs. Van Dyke, et al.
Kevin Hull, Esq. Freidberg & Parker, LLP

12/21/10 Nevada County Superior Court (Nevada City, CA)
Hon. Thomas M. Anderson
Dept. 6
Re: Niman v. Niman, Nevada County Superior Court Case No. P14839
R. Ellis Harper, Esq.

01/05/11 San Francisco, CA
Deposition
Re: Alameda County Probate Case No. RP08420940
Thomas Latham, Esq. & Brian F. Connors, Esq.

01/19/11 Los Angeles, CA (Korea Town)
Arbitration
Hon. Alan Penkower
Re: Stanley v. State Farm
Rob Pohls, Esq. of Pohls & Associates

02/01/11 Alameda Superior Court (Oakland)
Hon. Marshall Whitley, Dept. 18
Re: Estate of Winston Nielsen Deceased, The Regents Of The University Of California, Petitioner, v.
Kristin L. Johnson and Clifford R. Lancaster, Respondents
Case No. RP 08-403581
Charlie Wolff, Esq. Evans, Latham & Campisi
San Francisco, CA

02/09/11 Alameda Superior Court (Oakland)

Hon. Marshall Whitley, Dept. 18

[Rebuttal testimony]

Re: Estate of Winston Nielsen Deceased, The Regents Of The University Of California, Petitioner, v.
Kristin L. Johnson and Clifford R. Lancaster, Respondents

Case No. RP 08-403581

Charlie Wolff, Esq. Evans, Latham & Campisi
San Francisco, CA

03/22/11 Deposition in Alameda, CA

Estate of Taruk Joseph Ben-Ali

Defending: Vernon Goins, Esq. of Goins & Associates

04/19/11 Riverside Superior Court (Palm Springs)

Dept. PS2

Re: People of the State of California vs. Daniel Lee Smith RIF 144557
Melanie N. Roe, Esq. of Kennedy & Roe (for the Defendant)

05/09/11 Fresno, California

Deposition

Re: Estate of Lillian Salwasser, deceased

Fresno County Sup. Ct. Case No. 07CEPR00104

Defending, Lee Cobb, Esq.

05/13/11 Federal Court Sacramento

Hon David E. Russell Dept. 28

Re: Kupka v. Dead Oaks Estates Inc.

For the Respondent, George Hollister Esq.

05/31/11 San Jose, California

Deposition

Re: Straus v. Pavese et al

Andrew Lauderdale, Esq.

Santa Clara Superior Court

06/08/11 Sacramento, California

Deposition

Re: Wiens vs. Huff

For the Plaintiff, Randall L. Wiens

07/14/11 Roseville, Placer County, CA

Hon. O'Flauerty, Dept. 43

Re: Jayraj Nair v. Dindu P. Nair

Karen L. Mathes, Esq.

07/26/11 Santa Barbara, Superior Court

Hon. Brian Hill

Re: Peter Lance

For the Defendant, Daryll Genis, Esq.

08/02/11 Watsonville, Superior Court

Hon. Heather D. Morse

Dept. C

Re: Norton Dissolution

For Scott Norton, Patricia Liberty, Esq.

08/11/11 San Francisco, Superior Court

Hon. McCarthy

Department 624

Re: People v. Rory Talley

For the defense, Jacque Wilson, Esq.

08/26/11 San Francisco, Superior Court
Hon. Marla J. Miller
Dept. 604
Re: Miller v. CPMC
For the defendant, Mike Naranjo of Foley & Lardner LLP

08/30/11 San Francisco, Superior Court
Hon. Marla J. Miller
Dept. 604
Re: Miller v. CPMC
For the defendant, Mike Naranjo of Foley & Lardner LLP

10/03/11 Santa Barbara, Superior Court
Hon. Brian Hill
Re: Peter Lance
For the Defendant, Daryll Genis, Esq.

10/27/11 Oakland, Superior Court
Hon.
Dept. 6
Re: People v. Rafael Duarte
For the Defendant, William Cole

11/04/11 Sacramento, Deposition
Re: Dovichi v. James V. de la Vergne...Bendahans/McCartney
Deposing Law Firm: DLA Piper LLP (US)
Deposing Attorney, Steven S. Kimball
For the Plaintiff, Freidberg and Parker Law Firm
Defending my deposition, Bret Spitzer

11/09/11 Oakland, Superior Court
Homocide Trial
Hon.
Dept. 6
Re: People v. Rafael Duarte
For the Defendant, William Cole

03/05/12 San Mateo, Superior Court
Civil, Imani trial
Hon. Scott
Dept. 25
For Bitu Imani, Mike Adams, Esq.

03/07/12 Burbank Superior Court
Hon. William D. Stewart
Dept. A
Re: Hovsep
Alex Gilanians, Esq.

07/25/12 New York, Deposition
Paul Ceglia v. Facebook
Offices of Gibson Dunn
Defending for Ceglia, Dean Boland

09/06/12 Torrence, Deposition
Goldstone vs. Murphy
Deposed by Nick Campbell, Esq.
Defending for Murphy, JoAnna Esty, Esq.

10/04/12 Los Angeles main courthouse 111 Hill Street
Hon. Gregory Alarcon.
Department 36
Re: Kenny Teragawa vs. Borg Produce Sales, Inc. et al
Dan Fears Esq. Pain & Fears LLP

EXHIBIT 3

EXHIBIT 3

EXHIBIT 3

ER914

PERSONAL RELEASE

Desert Warriors
Production Company
Address 1090 Hamilton Rd.
Durante Ca. 91010

r matthew mttar.

Date 8/9/11

Ladies and Gentlemen:

I, the undersigned, hereby grant permission to Sam Bessi (matthew mttar)
("Producer") to photograph me and to record my voice, performances, poses, acts, plays and appearances, and use
my picture, photograph, silhouette and other reproductions of my physical likeness and sound as part of the
Our Roman tentatively entitled
(the "Picture") and the unlimited distribution, advertising,
promotion, exhibition and exploitation of the Picture by any method or device now known or hereafter devised in which
the same may be used, and/or incorporated and/or exhibited and/or exploited.

I agree that I will not assert or maintain against you, your successors, assigns and licensees, any claim, action, suit or
demand of any kind or nature whatsoever, including but not limited to, those grounded upon invasion of privacy, rights
of publicity or other civil rights, or for any other reason in connection with your authorized use of my physical likeness
and sound in the Picture as herein provided. I hereby release you, your successors, assigns and licensees, and each
of them, from and against any and all claims, liabilities, demands, actions, causes of action(s), costs and expenses
whosoever, at law or in equity, known or unknown, anticipated or unanticipated, which I ever had, now have, or may,
or shall hereafter have by reason, matter, cause or thing arising out of your use as herein provided.

I affirm that neither I, nor anyone acting for me, gave or agreed to give anything of value to any of your employees or
representative of any television network, motion picture studio or production entity for arranging my appearance
on the Picture.

The undersigned understands that they will not be compensated for their appearance in the recording.

I have read the foregoing and fully understand the meaning and effect thereof and, intending to be legally bound, I
have signed this release.

Dated 8/9/11 Crissy Garcia
Signature

If a minor, Guardian's Signature

Please Print Name

Address

AGREED AND ACCEPTED TO

By

REDACTED

Phone Number

Release #1

Exhibit A
Page -3-
ER915

EXHIBIT 4

EXHIBIT 4

EXHIBIT 4

ER916

Cast Deal Memo

This memo outlines terms of the agreement between MM ~~Productions LLC~~ and Cindy Garcia (hereinafter "Producer") related to the production of ~~Motion Picture~~ (hereinafter "Motion Picture.")

1. Services:

Cindy Garcia agrees to perform the services outlined in Appendix A.

2. Compensation:

Subject to the rest of the terms of this agreement, and upon satisfactory completion of the services outlined in Appendix A, Producer agrees to compensate Cindy Garcia at the rate and time designated in Appendix B.

3. Employment Status: [Independent Contractor]

[Independent Contractor: The parties agree that CG is an independent contractor, who is not required to work exclusively for Producer now or in the future, and who, as a professional, is expected to complete the assignment without supervision or training. No fringe benefits or overtime compensation will be provided and the contractor is solely responsible for all income, self-employment and other taxes due upon this income received in conjunction with the services rendered under this agreement. The contractor is not entitled to collect unemployment compensation under this agreement.]

4. Assignment of Rights

CG assigns to producer all rights necessary for the development, production and exploitation of the Motion Picture, whether denominated copyrights, performance rights, or publicity rights, including the right to reasonable use of his/her name and likeness in conjunction with the development, production and exploitation of the Motion Picture, and waives any right to sue Producer over such use.]

CG warrants to Producer that all

writing submitted for the Motion Picture is his own original work. The parties agree the script and all revisions of the script of the film are "works made for hire" as defined under article 101 of Title 17 of the U.S. Code. If for any reason the script should be determined to not be a "work made for hire," CG assigns all rights he may have to the work under U.S. and International copyright law to Producer.

5. Credits:

Producer agrees to provide the following credits:

Sam Bessi (matthew motta)

Date 8/9/11

Social Security Number

REDACTED

Address

Producer

Date

Appendix A:

[Describe the services to be performed in plain English including dates and times required to be available and any equipment to be provided.]

[Examples: actor playing (role); dates; times (or "as needed"); related responsibilities. Writer; responsibilities including revisions/turn around times between dates; Stunts/effects...]

Appendix B:

Describe Compensation Rate

EXHIBIT 5

EXHIBIT 5

EXHIBIT 5

ER919

Sep 24 12 01:44p

09/24/2012 MON 10:06 FAX

P. 2
0002/002Form
W-9
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service**Request for Taxpayer
Identification Number and Certification**Give Form to the
requester. Do not
send to the IRS.Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)

SSFCSCSDSI)DF

Business name (if different from above)

Cindy Garcia

Check appropriate box for federal tax classification:

☒ Individual proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) _____☐ Exempt payee☐ Other (see instructions) _____

Address (number, street, and apt. or suite no.)

City, state, and ZIP code

Use account number (if any) (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 8. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

[Redacted]

Employer identification number

[Redacted]

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments of other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign
HereSignature of
U.S. person

Cindy Garcia

Date

9-24-12

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business.

Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Cat. No. 10221X

Form **W-9** (Rev. 12-2011)

ER920

12136878032

08:13:04 a.m. 09-19-2012

17 /40

TOTAL P. 01

VERIFICATION

I, Cindy Lee Garcia, a Plaintiff in this proceeding, have read the documents:


COMPLAINT FOR:

**Declaratory Relief
Invasion of Privacy
False Light Invasion of Privacy
Right of Publicity;
Fraud;
Unfair Business Practices
Slander;
Intentional Infliction of Emotional Distress**

[Demand For Jury Trial]

[Ex Parte Application for a Temporary Restraining Order and a Preliminary Injunction Requested]

The information contained therein are true of my own knowledge, except as to those matters that are alleged on information and belief, and, as to those matters, I believe it to be true. I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of September, 2012 in Los Angeles, California.


Cindy Lee Garcia

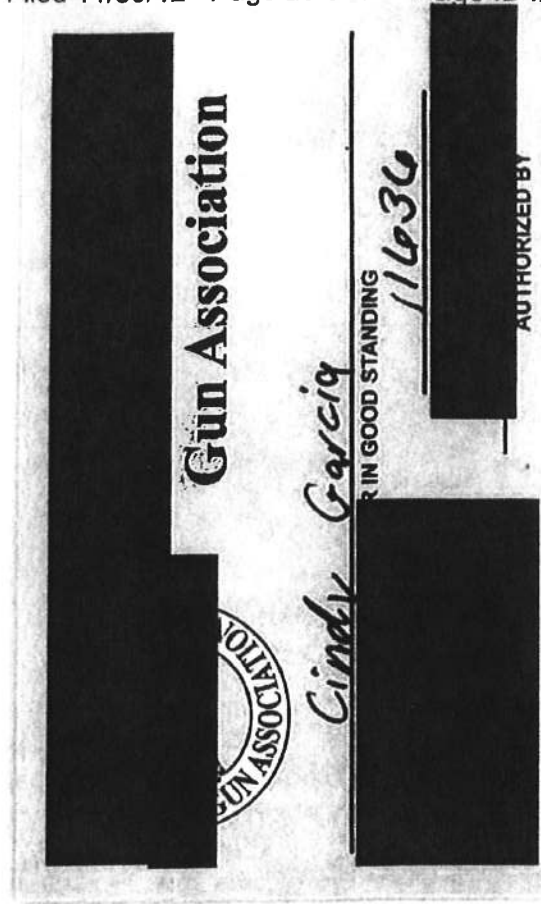
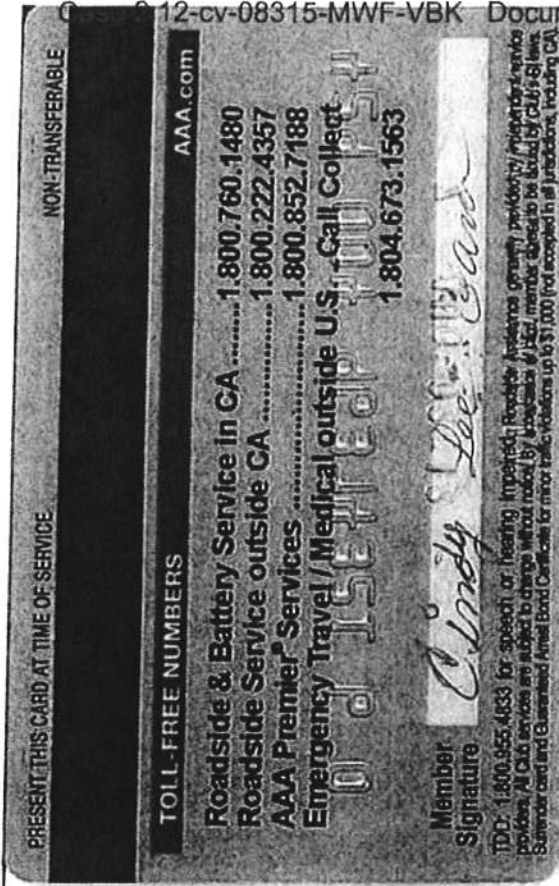
PLAINTIFF CINDY LEE GARCIA VERIFICATION

10/10/12 0559 698

HVS WMR

09/19/2012 09:13:04

ER921



42031 PL

#1000
AMERICAN SURETY COMPANY

P.O. Box 68932

Indianapolis, Indiana 46268

1-317-875-8700

☐ CHP 215s
☐ Accident
 Driver's Responsibility (\$40001 VC)

ZIP Code

 rcal
 No Age Birth Date

Race / Ethnicity

☐ COMMERCIAL VEHICLE
 (\$15210(b) VC)

☐ HAZARDOUS MATERIAL
 (\$353 VC)
☐ Same as Driver☐ Same as Driver

le

Indemnitor or Instruction (Last)

M I

M I

M I

M I

Special

Patrol Vehicle No. ☐ MVARs
 foregoing is true and correct.
 California

D. No. 257 to

D. No. to

INDICATED BELOW.

☒ AM ☐ PM

RSE

JURY ☐ JUVENILE

42031 PU

RECEIPT AND STATEMENT OF CHARGES

Receipt No. 1005133

Received of

Date

James Woods

Name

B9C

Address

Bail Bond Premium

\$ 4275

Expenses (Itemize in detail, such as Guard Fees, Recording Fees, Notary Fees, Long Distance Calls, Telegrams, Travel and other actual, unusual expenses, where permitted by law.)

\$

\$

\$

\$

\$

\$

TOTAL CHARGES

Received on Account

\$ 125

1068

Balance

\$ 4150

Was Collateral taken? (YES) (NO)

If Yes, Collateral Receipt No.

NAME AND ADDRESS OF BAIL BOND AGENCY

By

MEMORANDUM OF BAIL BOND FURNISHED

Defendant

Bond No. Bond Amt. \$

SSN DOB

Charge

Date Filed Date Released

A.M.

Date to Appear Time P.M.

Case No.

Court City

Received Copy of above receipt and Memo

Indemnitors Signature

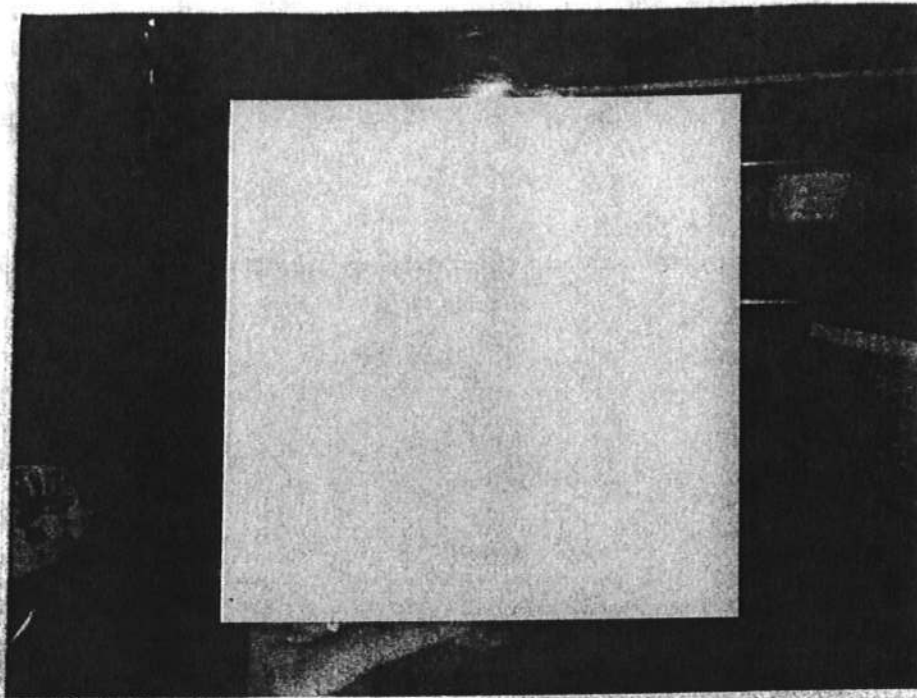
Cindy Carver

ASC-CA-2

 WHITE - ORIGINAL COPY
 CANARY - COMPANY'S COPY
 PINK - AGENT'S COPY

Thank You

ER923



Hello My name is Cindy Lee Davis Garcia,

I am very interested in a part in this film, I am with instantcast and explore talent

my email is fame4him1@sbcglobal.net

phone 661-833-8055

hope to hear from you

A handwritten signature in cursive script, appearing to read "Cindy Lee Davis Garcia".

Sincerely Cindy Lee

#1082

1
B
D
C
T
V
S
A

TIME CHARGED

PURCHASE ORDER

JOB LOCATION

ORDERED BY

SAME

Quantity	Item #	Item Description	Rate/Ea
1	036816-I	SPRINT SPRAYER, AIRLESS, ELEC	Minimum # 452.00 EA
		62.00 Day 350.00 Week 650.00 4WK	

THE ABOVE STATED RENTAL PRICE IS FOR A SINGLE SHIFT OPERATION, 8 HOURS PER DAY, 40 HRS PER WEEK OR 160 HRS PER 4 WEEK. ADD'L CHARGES WILL BE MADE IF HOURS USED EXCEED THESE LIMITS

SAFETY PRECAUTIONS

- NEVER PUT FINGER NEAR SPRAY TIP OR AIR GUN TOWARD ANY PART OF BODY
- IF LEAK SHOULD OCCUR IN LINE OR AT ANY FITTING, IMMEDIATELY SHUT OFF UNIT. DO NOT ATTEMPT TO STOP LEAKAGE WITH HAND OR PART OF BODY
- IF THESE INSTRUCTIONS ARE NOT FOLLOWED, IT IS POSSIBLE THAT THE HIGH PRESSURE MIGHT BREAK THE SKIN & INJECT A SMALL QUANTITY OF MATERIAL. IF THIS HAPPENS, GET IMMEDIATE MEDICAL ATTENTION AND HAVE THE DOCTOR INSPECT FOR & REMOVE FOREIGN MATERIAL.
- NEVER ATTEMPT TO CHANGE THE SPRAY NOZZLE WITHOUT FIRST SHUTTING OFF UNIT & RELIEVING THE PRESSURE. IF GUN IS EQUIPPED WITH A "TWIST TIP", BE CAREFUL NOT TO GET FINGER NEAR TIP WHEN TURNING TO CLEAR A BLOCKAGE.
- BE SURE ELECTRICAL SUPPLY IS GROUNDED.
- KEEP THE UNIT AT LEAST 25 FEET FROM SPRAYING AREA IN A WELL VENTILATED LOCATION.
- DO NOT SPRAY VOLATILE MATERIALS WITH FLASH POINTS LESS THAN 140 DEGREES F(60C). DO NOT SPRAY ANY MATERIAL IN THE VICINITY OF OPEN FLAME, PILOT LIGHTS, OR OTHER SOURCES OF IGNITION.

TERMS: CASH. ESTABLISHED OPEN ACCOUNTS ARE DUE AND PAYABLE NET 30TH. PAST-DUE ACCOUNTS BEAR LATE PAYMENT PENALTIES AT 1% PER MONTH.
I HEREBY ACKNOWLEDGE RECEIPT OF THE ABOVE DESCRIBED EQUIPMENT SUBJECT TO THE RENTAL.

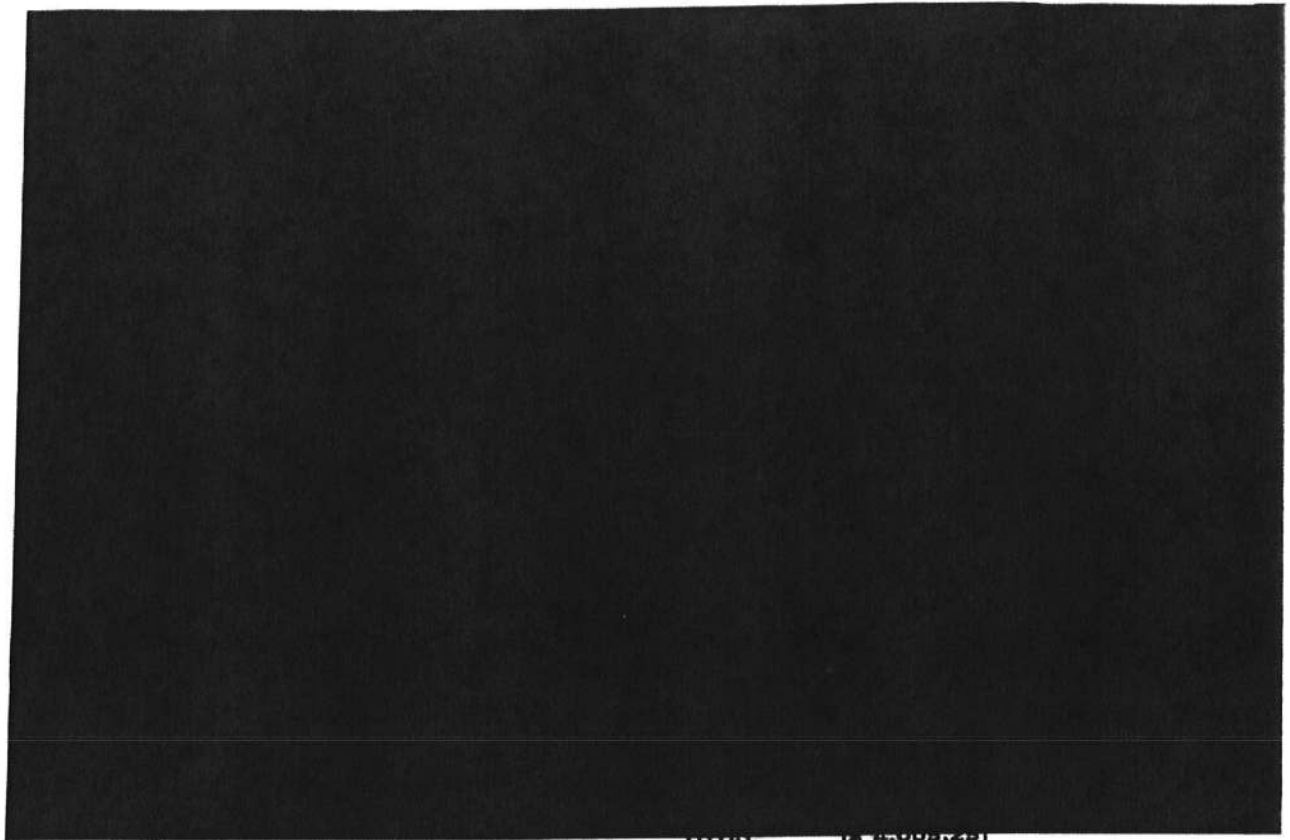
THIS IS YOUR CONTRACT. READ BEFORE SIGNING

SIGNATURE

PLEASE PRINT
YOUR NAME

CO.

ER925



TOTAL \$ 4,000.25

All these clothes & shoes that we are sending to Malawi Africa are a love donation to be handed out to the widows & orphans as the word of God commands us.

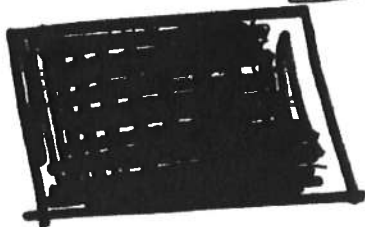
Thank you for all your help both to the African Government and Churches that help in distribution.

Sincerely Pastor Cindy Garcia

Flame Of Fire Outreach Bakersfield, Ca. 93304



Pasta Cindy Garcia
Pastor Garcia Garcia CC.



Please call me
BRIAN ASAP
661-817-3347
Need drop off
information

9/12/11

Flame Of Fire Outreach Bakersfield, Ca. 93304 r-661-817-3347 oR r-661-833-8055

Shipping clothes to Africa

ER926

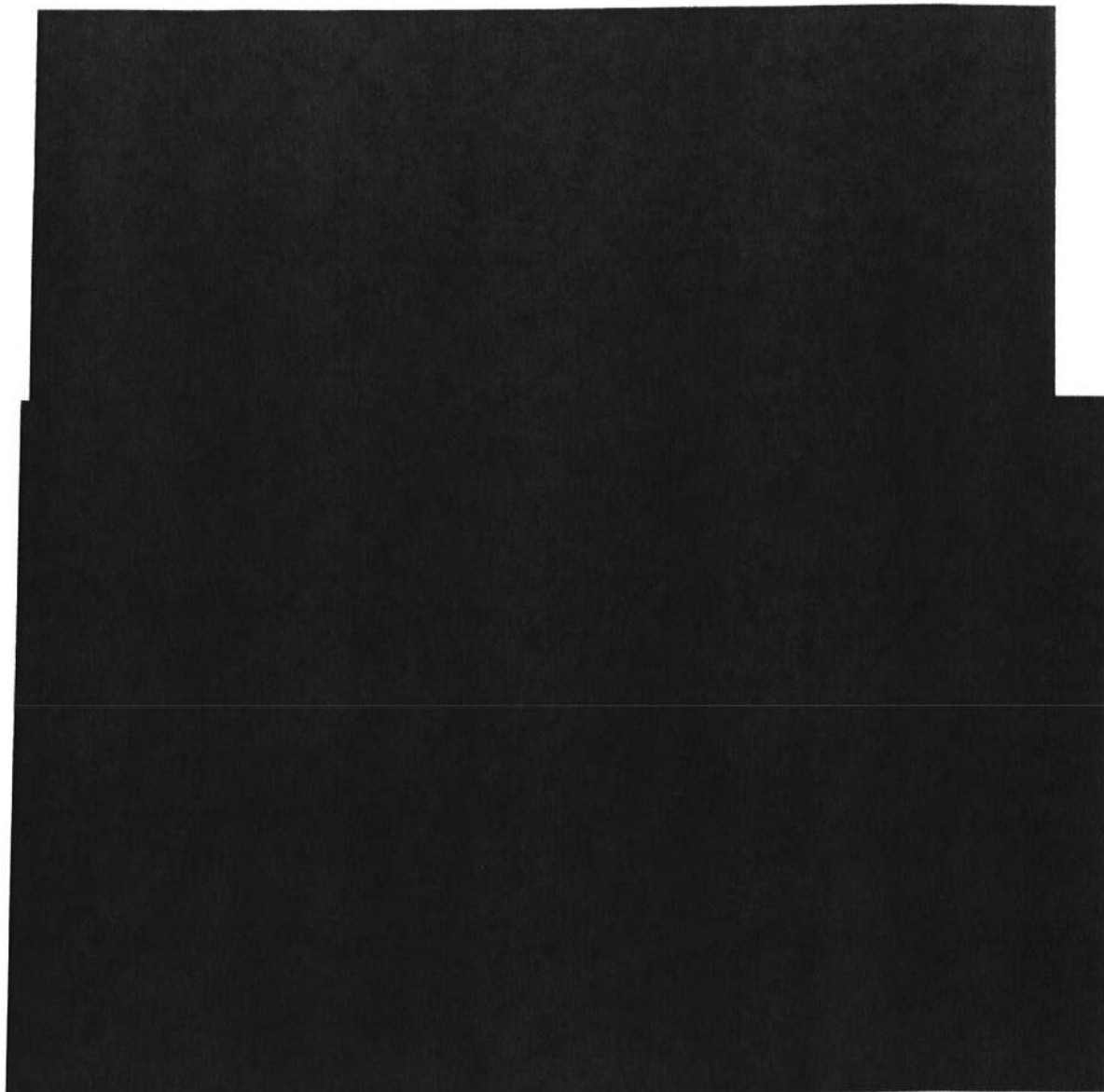
[REDACTED] Title Company

I have read the Preliminary Report dated January 6, 2010 covering the property described in your above numbered escrow. I know of no other matters pertaining to the condition of title other than stated in this report. Further we approve the legal description as being the property which is the subject of this escrow.

I hereby acknowledge receipt of a copy of said Preliminary Report.

Flame of Fire Outreach Church, a Non-Profit Organization

By: Cindy L. Garcia
Cindy L. Garcia, Authorized Agent



10-10-12
Date

10/10/12
Date

Cathy Conner
Applicant

[Signature]
Agent

ER928

Christian ordained minister. I have received numerous death threats, all of which have been reported to the appropriate authorities. Because of security concerns, the authorities advised me not to release the details of which law enforcement agencies have received those reports. The death threats include, but certainly are not limited to, the following:

"I am ready to die for MUHAMMAD (PBUH) and I would Like to Kill all Those Who contributed in the Shape of Acting or Financially or any other Kind of Support in Shameless Movie."

"And If You Wanna to save your life and we consider your innocent then Just Kill Sam and Terry Jones."

"Dear the end is near."

"It's all a big joke. She will be Killed by some one who loves and cares our Prophet Muhammad peace be upon him"


"She will know what she did now she is saying sorry about that"

Copies of these threats are attached hereto as Exhibit B.

18. I have filed an application to register my acting performance in *Desert Warrior* work with the United States Copyright Office. Attached as Exhibit C is a true and correct copy of my copyright application.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12th day of October, 2012, at Bakersfield, California.


Cindy Lee Garcia

DECLARATION OF CINDY LEE GARIA
CV 12 8315 (VBKx)



Flame of Fire Outreach

RE: CANCELLATION NOTICE

November 9, 2012

[REDACTED]
[REDACTED]

Dear Flame of Fire Outreach,

You recently indicated that you wish to cancel your alarm monitoring contract with SAFE Security®. For your protection against fraud and to ensure proper security of your property, please complete the information below as cancellation notification, and return this document to SAFE.

SAFE requires written notification of alarm monitoring account cancellation, which must be received days before the end of your current contract term. Please refer to your monitoring agreement for details. Your monitoring account with SAFE will be cancelled once this form is returned and a final payment in the amount of \$150.92 has been received. This payment covers the remaining balance of your contract.

For your convenience, SAFE now accepts both checks and credit card payments by phone and via our web site at www.safesecurity.com. If you have already remitted a payment for this final amount, thank you and please disregard this letter.

If you are paying by check, be sure to include your account number on your check. If you wish to pay by credit card (VISA, MasterCard, Discover or American Express); you may also make your payment on our website at www.safesecurity.com. Click on SAFEPay.

Please be aware that if you are currently receiving a discount on your homeowner's insurance policy based on monitoring service, you may have an obligation to disclose to your insurance carrier your discontinuance of monitoring service. Failure to make such a disclosure could affect your rights under the policy.

Cancellation Reason: We moved from the building on Erc St.
to Another Building due to personal reasons. And left
the building with Pastor Julio.

Signature: Cindy L. Garcia Date: 11-12-12

You may fax this notification to SAFE at (925) 871-4093 or mail it to:
Customer Care, SAFE Security, PO Box 5164, San Ramon CA 94583

We at SAFE Security are sorry to see you go, and we have greatly appreciated your business. We hope that you will think of us in the future when you require security equipment and alarm monitoring services. If you need further assistance, please contact SAFE Customer Care at (800) 669-7779.

Sincerely,
SAFE Security

ER930

Sent all

Karin -

661-324-7000

LES.

Notes

5 Parenthood Episode 219 Taking The Leap
Role Max's Teacher age 30-45
well meaning involved teacher, also hopeful
that max will continue at football, Guest Star
Second Shoot 3/11/11. Sent Cami Patton Casting
4640 Lankershim Blvd.
West Hollywood 91602

Questions Sam Asked
me

March 2/2012

Sam. Bassil

Need to convert from Hard drive to
HD CAM. Find Someone!

2 hr movie. also Color Correction

Cindy Lee Garcia

ER931

19th

#1009

deposit

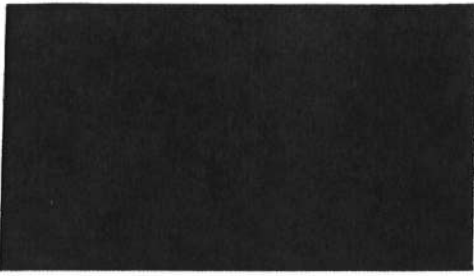
530.00

Prorated rent

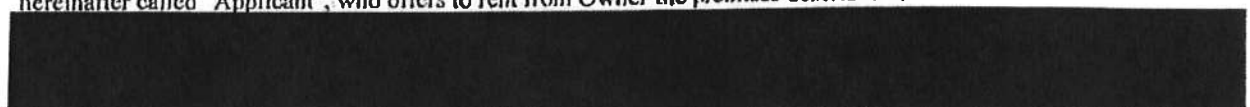
(Friday)

own deposit back 1300.00 Cashier check

Plus our money back from Donna moving out early.



On the 15th day of October, 2012, owner received \$ 1300.00 from the undersigned, hereinafter called "Applicant", who offers to rent from Owner the premises described as



1. Rent in advance of \$ 900.00 per month, payable on the 1st day of each month, tenancy to begin on the 18th day of October, 2012 but subject to any present resident vacating or the availability of the premises.

2. A security deposit of \$ 1200.00

Owner shall return the full amount received an Applicant immediately if:

- (a) The premises are not available on the agreed date, or
- (b) Applicant executes the rental agreement and pays owner the first month's rent and security deposit.

If, after notification of acceptance, Applicant fails to comply (by entering into the agreed rental agreement and paying the first month's rent and security deposit), by the 18th day of October, 2012, Owner may deduct from the amount received \$ 30.00 per day for each day the premises are vacant, from the date applicant's tenancy was to begin, to date tenancy commences or reletting, not to exceed (30) days.

Owner, within seven days after the premises are relet, shall return to Applicant, to the Applicant's address shown below, any balance remaining, with an itemization of Owner's damages.

If any legal action or proceeding be brought by either party to enforce any part of this agreement, the prevailing party shall recover, in addition to all other relief, reasonable attorney's fees and costs.

Date 10/18/12 Time _____

 Owner/Agent

Cindy Garcia
 Applicant
Cindy Garcia
 Applicant
 Address _____
 Phone _____

ER932

Gmail - Desert Warrior - flame4him1@gmail... Gmail - Desert Warrior - flame4him1@gmail... https://mail.google.com/mail/?shva=1

Casting Director
Allen
Roberts

Jeff
Robinson
A.D.
480-518-
5197

Alan Roberts
desertwarrior2011@
yahoo.com

Audition
Call

Gmail

Search Mail Search the Web [Show settings](#)

Want to Earn Disney Money? - Auditions & Open Calls Now Open.


Archive Spam Delete Move to Labels More


Desert Warrior | X Inbox | X

cindy garcia
cindy garcia
cindy garcia to Alan

Alan, thank you for getting back with me I appreciate it. I also would love the chance for it was very nice to meet you, you were very professional and comfortable interact with.

2 attachments — [Download all attachments](#) [View all images](#)

 cindy full face.jpg
76K [View](#) [Download](#)

 CINDY BLACK DRESS.jpg
106K [View](#) [Download](#)

Reply Forward

Send Save Now Discard

To: Alan Roberts <desertwarrior2011@yahoo.com>

[Add Cc](#) | [Add Bcc](#) | [Edit Subject](#) | [Attach a file](#) | [Include original attachments](#)

On Fri, Jul 29, 2011 at 3:35 PM, cindy garcia <flame4him1@gmail.com> wrote:
Alan, thank you for getting back with me I appreciate it. I also would love the chance it was very nice to meet you, you were very professional and comfortable interact w

On Fri, Jul 29, 2011 at 12:29 PM, Alan Roberts <desertwarrior2011@yahoo.com> w
No female warriors. Sorry. But we will consider you for other role:

-- On Thu, 7/28/11, cindy garcia <flame4him1@gmail.com> wr

Steve Golen
Burg.
912-996-2263

Hourly Fees and Contingent Nature of Fee Recovery

This Engagement Agreement is a contingency agreement governed by Section 6147(a) of the California Business and Professions Code. Under this Agreement, Counsel will recover payment for Attorney's Fees if any, only if Client obtains monetary recovery. For the purpose of calculating the Contingency Fees (as defined herein), Attorneys' Fees shall also include all attorneys' fees, and paralegal fees.

Client's Action will be handled by M. Cris Armenta at an hourly rate of \$450 per hour. Counsel may increase that rate upon thirty (30) days written notice and the absence of any objection shall be deemed Client's acquiescence to a rate increase. Counsel may also retain other counsel or paralegals to work on Client's Action as appropriate in Counsel's discretion. Counsel will prepare and mail to Client each month an invoice reflecting charges at Counsel's full hourly billing rates for all timekeepers who worked on the Action that month. From any monetary recovery, Counsel shall first subtract and pay to Counsel any unreimbursed Out-of-Pocket Costs and Reimbursable Costs. From the remainder, Counsel shall be paid one-third as payment for Attorneys' Fees ("Contingency Fees") from any pre-trial settlement, and after heavy trial preparation begins (deemed to be forty-five days before the set trial date) forty-percent. Any award of Attorneys' Fees and costs ordered by the Court shall be separately paid to Counsel. Client understands that the contingency fees are not set out by law and are instead an item negotiable between Client and Counsel, and that the Client may negotiate a lower rate of recovery for attorneys' fees for Counsel.

Despite the contingency nature of this Agreement, Counsel shall have the right to withdraw from representation of Client if Client fails to do any of the following: pay Counsel's statements for payment of Out-of-Pocket Costs in full upon presentation, follow Counsel's advice, cooperate with Counsel, or fail to communicate with Counsel.

Lien on Recovery

In the event of litigation, Client hereby grants to Counsel to the extent of Counsel's attorneys' fees and unreimbursed costs (whether Out-of-Pocket or Reimbursable Costs), a lien on any recovery achieved for Client by Counsel. Any and all checks or drafts in payment of any settlement or judgment shall be made payable jointly to Client and Counsel unless otherwise agreed by Client and Counsel, and will be deposited into Counsel's client trust account. Client further agrees that Counsel may deduct its share of such recovery, by advising the Client in writing of its intent to do so and providing the Client at least 5 days to respond to Counsel's accounting, with the balance being distributed to Client.

No Guarantees

Client acknowledges that Counsel has not made and will make no guarantee regarding the ultimate cost (in fees and expenses) or the outcome of any subject matter of the representation, and all expressions regarding such matters are preliminary assessments or opinions only.

Forum For Disputes

Any dispute arising out of or related to this agreement will be decided under California law. California will be the exclusive jurisdiction for resolution of all disputes.

ENGAGEMENT AGREEMENT

Cindy Lee Lewis (hereinafter, "Client") retains The Armenta Law Firm (hereinafter "Counsel") on the following terms and conditions to represent Client in connection with the removal of the YouTube Video film known as "Innocence of Muslims" and advice and possible litigation against the responsible parties ("the Action").

General Authorization

Client authorizes Counsel to undertake, on Client's behalf, any actions Counsel deems necessary or appropriate to advance Client's interests in connection with the Action. This authorization includes the right to institute such actions, and to retain investigators, experts, consultants, and other attorneys or law firms as Counsel deems necessary to assist in the Action.

Monthly Billing Statements

Counsel's services will be billed to Client on a monthly basis. The statements generally will be prepared during the second week of the month following the month during which the services have been performed. The monthly billing statement will include time detail to show the time spent by Counsel or other timekeepers and a listing of Out-of-Pocket Costs and Reimbursable Costs (as defined below). Client agrees to pay the Out-of-Pocket Costs upon receipt of the monthly billing statement.

Out-of-Pocket Costs and Reimbursable Costs

Client shall be responsible for all costs incurred which are reasonably necessary for the preparation and presentation of Client's representation. The Out-of-Pocket Costs include those items for which Counsel makes advances on behalf of Client. These typically include filing and messenger fees, investigator fees, external reproduction costs, delivery charges, postage, and all experts' and consultants' fees. The Reimbursable Costs include those costs that are internal to Counsel's office, such as internal reproduction costs, facsimiles, telephone charges or the like.

Counsel shall have the authority (but not the obligation) to make advances for such Out-of-Pocket Costs and Reimbursable Costs on Client's behalf, but Client shall remain ultimately responsible for payment or repayment of such costs. Notwithstanding the foregoing, Counsel shall receive the Client's verbal consent prior to any single Out-of-Pocket Cost or Reimbursable Cost in excess of \$500.00 and shall receive the Client's written consent for any single Out-of-Pocket Cost in excess of \$1000.00. An email from the Client shall suffice as "writing" under this provision.

In this case, Counsel has agreed to find the initial cost only of filing the case if one is to be filed, service costs for the summons and complaint and the filing costs for seeking a temporary restraining order or motion for preliminary injunction. Counsel has explained that after these procedures, Client and Counsel will have better information to assess whether the Court believes Client is "likely to prevail on the merits." At that juncture, both agree that Client and Counsel will meet, and either the costs will be shifted to the Client, or the Client will agree to dismiss the action without prejudice if the action does not seem likely to result in prevailing.

Arbitration of Disputes

It is understood and agreed that any claim arising out of the rendition or lack of rendition of services under this Agreement (including claims of legal malpractice) will be determined by submission to final and binding arbitration. This includes any claim that any legal services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered. At the sole option of the Client this arbitration agreement may also include any dispute over legal fees as provided in Sections 6200-6206 of the California Business and Professions Code.

All parties to this Engagement Agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury and instead are accepting the use of arbitration. Client may wish to seek outside advice or counsel concerning this procedure.

The arbitration proceedings will be administered by the Santa Monica Office of JAMS/Endispute.

NOTICE: BY SIGNING THIS AGREEMENT YOU ARE AGREEING TO HAVE ANY ISSUE OF LEGAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL.

CL

(Ms. Lewis' initials)

Garcia

Entire Agreement

This Engagement Agreement contains the entire agreement between Counsel and Client. Client acknowledges that there are no other agreements (either oral or written) between Client and Counsel other than as set forth in this Engagement Agreement. No modification or waiver of any term of this Engagement Agreement shall be valid unless agreed to in a writing signed by both Client and Counsel.

Consultation With Independent Counsel

Client has been advised that this is a legally binding Engagement Agreement, and that Client has the right to (and Counsel recommends that Client does) consult an independent attorney to review and advise Client as to all of the terms of this Engagement Agreement, including but not limited to the scope of this Agreement, the fee and cost provisions of this Engagement Agreement and the advisability of Client executing this Engagement Agreement.

The undersigned, having carefully read and understands all of the above terms and conditions, hereby agrees to them.

Dated: September 14, 2012

Cindy Lee Garcia
Cindy Lee ~~Lewis~~ Garcia

FAX Transmission

Number of pages including cover sheet 13

Attention: Chris Armenta

Date: 7-18-12

Company: Law Firm

From: Cindy Garcia

Phone: 310-826-2826

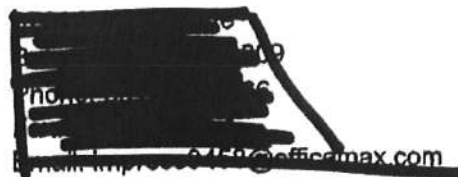
Company: _____

Fax: 310-826-5456

Phone: 661-817-3347

Comments: These are some of the threats, also
Posting Call for everyone Just Use me
also my original script

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IMPRESS
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Innocence of Muslims Actress Speaks "says film is nightmare" - Yo... #1015

http://www.youtube.com/watch?NR=1&feature=endscreen&v=cw

Innocence of Muslims Actress Speaks "says film is nightmare"

talkinrazzytv 28 subscribers 168 videos

Some good

Like Add to Share

15,932

Published on Sep 13, 2012 by talkinrazzytv

An actress who starred in an anti-Muslim film that stirred extremists to protest across the Middle East claims she was tricked by the filmmaker, who she says lied to the cast about his own name and the true intentions of the movie.

21 likes, 41 dislikes

Show more

All Comments (54)



Respond to this video...

Wow, u aahholes who threaten that poor woman is exactly what is wrong with ur religion. Brainwashed idiots!! There r plenty peaceful Muslims around the world but few motherfuckers like u is all it takes to give 1 ed name. If u believe in ur own Quran u r the ones who going to Hell, I also hope u get screwed in the sea with a long black dildo!

me2011a 3 days ago

Her name is Cindy Lee Garcia

crimzels 2 days ago

This has been flagged as spam show
TheCerberus141414 2 days ago

All this over such a idiot movie. Are you kidding me muslim world. I swear these people would look to anything just to start protesting or going to war. I am surprised they haven't launched their Jihad yet.

thnrope331 3 days ago

I bet the handsome guy who played Mohammed will become famous nonetheless

randyzma 3 days ago

GLUSTERFUCK 2012!

Andrew141414 3 days ago

People, brothers and sisters, stop! She's innocent! She didn't even know what the movie was about! She even apologized to the Muslims for this mistake! I'm a Muslim myself, and I hate the bastards who created this film, but this lady here said she didn't know they were gonna record a other voice over her voice and change the story!

Montez141414 3 days ago

Show in a new Bank you have your own of a Christian bank on

PAGE 03

OFFICEMAX

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Cindy Garcia



Single Muslim
by singlemuslimid
270,811 views

Ad



Multiple Protests in Arab World over
by ShadedPeaceNews
6,488 views



Actress from anti Islamic film
by ROADMERCY
19,762 views



Actress in Anti-Islam Film Wants Name
by AnasheedPress
68,338 views



MUSLIM RESPONSE TO: Anti-Islamic Movie
by IslamExplained
139,948 views



2012 09 13, Anti Islam actress speaks out!
by bahr1111
1,882 views



Feds Question Nakoula Basseley Nakoula (AKA
by CutOMiliterian
26,408 views



[Full Movie Leaked] Innocence of Muslims
by LastFullGames
58,278 views



RE: Sam Bacile's The Muhammad Movie
by theRationalisth
353,941 views



"Innocence of Muslims" Producer
by Gveller
7,311 views



Hillary Clinton calls anti-Muslim film,
by HeadNews
133,028 views



Actress from the "Innocence of Muslims"
by CutOMiliterian
2,010 views



Sam Bacile's "The Innocence of Muslims"
by CutOMiliterian
2,053 views



لقاء خاص مع مجلة الفيلمين المصورين المسلمين
by AsadBri
3,385 views



Actress in "The Innocence of Muslims"
by CutOMiliterian
329 views

16613972661

09/18/2012 11:29

ER938

Innocence of Muslims Actress Speaks "says film is nightmare" - You..

http://www.youtube.com/watch?v=NRzLdfeUw0s&list=PLw0on&v=cw...

Grower | Movies | Upload

Cindy Garcia

Innocence of Muslims Actress Speaks "says film is nightmare"

14th Nov 2012 18:00

Like Add to Share

Published on Sep 13, 2012 by Islamism
An actress who starred in an anti-Muslim film that crossed the Middle East claims she was misled by the filmmaker who she says led to the death of her own father and the destruction of the movie.

21 Nov, 41 shares

All Comments (84)



Respond to this video..

Maybe she is lying?
10/20/2012 1:19 1 day ago

It does look and feel like the muslims are being fed a line for a fall and though they might show and not for their good nobody's going to going to win out of this crazy situation
10/20/2012 1:19 1 day ago

I fear it's not to hear the film was offensive, insulting and disgusting. This woman was misled and would be stupid enough to make the film if she knew reason behind it. At the end of the day as horrible as the film is it is a film. It's going to be all the mayhem and death and violence after that the media are going to focus on and may use this to bring some western right operations. I fear for this woman's life but probably more so for the main character in the film.
10/20/2012 1:19 1 day ago

Just you decide to eat people on you animals and then you just state random shit?? 80% of the muslims on the world live in the Muslim nation. In reply to 10/20/2012 1:19 1 day ago

It's all a big lie. She will be killed by some one who loves and care for Prophet Muhammad peace be upon him. Now it's not the time to be dramatic, it's time now to say
10/20/2012 1:19 1 day ago

you are brain dead zombies, with a tiny brain that I am the stupid. Did you know what you were doing yourself? When you were born? Your mother is a cunt for not preventing the disgusting sperm from you.
10/20/2012 1:19 1 day ago

The 1/3 you speak of live in the middle east. And you, a brain dead not to be displayed here. The only animal here is you.
10/20/2012 1:19 1 day ago

She is just scared of some retarded jihad blowing her up she wouldn't give a damn if muslims don't behave like animals.
10/20/2012 1:19 1 day ago

she will know what she did and what she did and she is going to carry about that
10/20/2012 1:19 1 day ago

1/3 of the world is muslims. And you, a brain dead not to be displayed here. The only animal here is you.
10/20/2012 1:19 1 day ago



Single Shot
by 10/20/2012 1:19 1 day ago

Ad



Multiple Problems in Arab World
by 10/20/2012 1:19 1 day ago



Actress from anti-Islamic film
by 10/20/2012 1:19 1 day ago



Actress in anti-Islamic film
by 10/20/2012 1:19 1 day ago



Muslim Response to Anti-Islamic Movie
by 10/20/2012 1:19 1 day ago



1/3 of 13.4m muslims speak out
by 10/20/2012 1:19 1 day ago



Poster Question: Muslims
by 10/20/2012 1:19 1 day ago



Full Movie Looking
by 10/20/2012 1:19 1 day ago



ME: Sam Beebe's The
by 10/20/2012 1:19 1 day ago



Innocence of Muslims
by 10/20/2012 1:19 1 day ago



Hillary Clinton calls anti-Muslim film
by 10/20/2012 1:19 1 day ago



Actress from the 'Innocence of Muslims'
by 10/20/2012 1:19 1 day ago



Sam Beebe's 'The Innocence of Muslims'
by 10/20/2012 1:19 1 day ago



أفلام عن حياة النبي
by 10/20/2012 1:19 1 day ago



Actress in 'The Innocence of Muslims'
by 10/20/2012 1:19 1 day ago



'Muslim Innocence' Exposed
by 10/20/2012 1:19 1 day ago



Cindy Lee Garcia speaks out over
by 10/20/2012 1:19 1 day ago



Video anti-Islam: une
by 10/20/2012 1:19 1 day ago



Cindy Lee Garcia Photo Gallery
by 10/20/2012 1:19 1 day ago

Innocence of Muslims Actress Speaks "says film is nightmare" - Yo.

http://www.youtube.com/watch?v=1&feature=embed&v=sw...

Browser | MyInfo | Upload

Cindy Garcia

Innocence of Muslims Actress Speaks "says film is nightmare"

11/18/2012 11:11 AM 100 Views

Like Add to Share

15,932

Published on May 12, 2012 by Islamism

An actress who starred in an anti-Muslim film that stirred extremists to protest across the Middle East claims she was tricked by the filmmaker, who she says lied to the cast about his own name and the true intentions of the movie.

Share

All Comments (94)



Respond to this video...

WAKE UP AMERICA!! These attacks on America will have nothing to do with this movie. It's a distraction! These attacks have been planned... Doesn't anybody watch the news? Since when is freedom of speech a cause for terrorism? Obama is a Muslim and he is taking this country down!!

reemman1234 161 hours ago

The point here is that most of Americans support such movies, and they forget the consequences. I am sure that if anyone who made this video knew that such a movie would cause bleeding, they would not have made it. Then if just four Americans were killed because of this, don't forget that lots of Muslims were killed and wounded. All Muslims condemn such killing and they condemn more such movies. Then, why you are not on us leave our religion of you really believe in freedom?

Chah Ahmad In reply to IsmaelDhahbi (State Islamism) 161 hours ago

Yes, I'd certainly know one conclusion that you're population perspective? What the fuck are you on man? He's not perspective the common sense you intended start with fountain's syndrome. My head which houses my superior intellect will rape your ugly less retarded brain which holds all that trash. Unruh is bigger than you most of the trash is with me on this. And here's a message from the universe to you Go I see you're a worthless piece of Allah's creation. Go rape both yours and your retarded mother's cunt!

11414141414 In reply to IsmaelDhahbi (State Islamism) 12 hours ago

You'd know all the fucken conclusions you'd know... perverted sack of shit... as for the population perspective I was in Iraq I admit that, too bad you're so ignorant and brainless. I bet your head would be used as a fucken toilet for fuck. And the fact that you said you're a part of the ummah proves me the fuck off. You ignorant worthless piece of shit. Your not part of any ummah so go die in the most painful way possible and maybe god will show you some mercy. peace bitch

mouthman In reply to IsmaelDhahbi (State Islamism) 12 hours ago

As a muslim, I call upon all muslims to listen to what's being said in the hands of the idiot who is clearly under the illusion that he is a film maker. Who ever is reacting to it in a violent manner is certainly CC UP LICIT in this whole mess. Also I think that muslims are co-conspirators in this religious religious channel. Al-Nusra for killing and further fuelling the situation by adding the footage in relation to further insult muslims. Let's be smart about this... she should have done her homework.

Costanza 15 hours ago

This has been flagged as spam show my video comment 15 hours ago

To all their articles would be an insult to those who are... do you know how many muslims there are in the world you dumb ignorant fuck? More than a billion 80% of a billion is 800 million. The total population of us is 300 million where did the extra 500 million come from you stupid cocksucker? Or are you are bad at calculating as you are at math? Your one opinion even muslims will call you a moron. What you can do best for the ummah is to just go off a fucking, maybe we'll even give you 30 virgin girls.

1515151515 In reply to IsmaelDhahbi (State Islamism) 12 hours ago



Single Muslim
by singlemuslim
270,811 views

Ad



Multiple Problems in Arab World
by MultipleProblems
2,488 views



Actress from anti-Islamic film
by HADAMADY
15,932 views



Actress in Anti-Islamic film
by KaramaTV
15,932 views



MUSLIM NATION
The Anti-Islamic Movie
by Islamophobia
15,932 views



2012 08 12 Anti-Islamic actress speaks out
by Islamophobia
15,932 views



Patri Question: Hebraic
Revealing Hebraic (JUDA)
by CUDHOLLYWOOD
15,932 views



Full Movie: Looked
Revealing of Muslims
by CUDHOLLYWOOD
15,932 views



W: Sam Bush's The
Revealing of Muslims
by CUDHOLLYWOOD
15,932 views



Innocence of Muslims
Produced by
by Islamophobia
15,932 views



Hillary Clinton calls
anti-Islamic film
by HADAMADY
15,932 views



Actress from the
Innocence of Muslims
by CUDHOLLYWOOD
15,932 views



Sam Bush's 'The
Innocence of Muslims'
by CUDHOLLYWOOD
15,932 views



AP: لا إله إلا الله
Confession
by Islamophobia
15,932 views



Actress in 'The
Innocence of Muslims'
by CUDHOLLYWOOD
15,932 views



Muslim Innocence
Revealing
by Islamophobia
15,932 views



Cindy Lee Garcia
speaks out over
by Islamophobia
15,932 views



Video anti-Islam: use
descriptions & explanations
by HADAMADY
15,932 views



Cindy Lee Garcia
Photo Gallery
by CUDHOLLYWOOD
15,932 views

Christian ordained minister. I have received numerous death threats, all of which have been reported to the appropriate authorities. Because of security concerns, the authorities advised me not to release the details of which law enforcement agencies have received those reports. The death threats include, but certainly are not limited to, the following:

"I am ready to die for MUHAMMAD (PBUH) and I would Like to Kill all Those Who contributed in the Shape of Acting or Financially or any other Kind of Support in Shameless Movie."

"And If You Wanna to save your life and we consider your innocent then Just Kill Sam and Terry Jones."

"Dear the end is near."

"It's all a big joke. She will be Killed by some one who loves and cares our Prophet Muhammad peace be upon him"

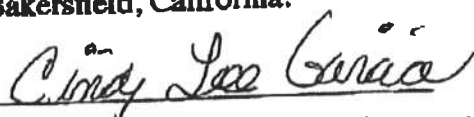
"She will know what she did now she is saying sorry about that"

Copies of these threats are attached hereto as Exhibit B.

18. I have filed an application to register my acting performance in *Desert Warrior* work with the United States Copyright Office. Attached as Exhibit C is a true and correct copy of my copyright application.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12th day of October, 2012, at Bakersfield, California.


Cindy Lee Garcia 10-14-12

DECLARATION OF CINDY LEE GARCIA
CV 12 8315 (VBKx)

Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

Privacy Act Notice: Sections 406-410 of Title 17 of the United States Code authorize the Copyright Office to administer the Copyright Office's information system on this form in order to process the application for copyright registration. By providing this information you are agreeing to release use of the information that (include publication) to give legal notice of your copyright claim as required by 17 U.S.C. 107. It will appear in the Office's online catalog. If you do not provide the information requested, registration may be refused or delayed, and you may not be entitled to certain relief, remedies, and benefits under the copyright law.

Form PA
For a Work of Performing Arts
UNITED STATES COPYRIGHT OFFICE
REGISTRATION DIVISION

PA PAW
EFFECTIVE DATE OF REGISTRATION
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 **TITLE OF THIS WORK** ☒ "Desert Warrior"

PREVIOUS OR ALTERNATIVE TITLES ☒ "Innocence of Muslims"

NATURE OF THIS WORK ☒ See instruction

Audio-visual work, pertaining to Cindy Lee Garcia's dramatic performance in "Desert Warrior" and put on film

2 a **NAME OF AUTHOR** ☒ Cindy Lee Garcia

DATES OF BIRTH AND DEATH Year Born ☒ 1957 Year Died ☒ NA

Was this contribution to the work a "work made for hire"? ☒ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country ☒ U.S.A. OR ☒ Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK ☒ Anonymously ☒ Pseudonymously ☒ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ☒ Dramatic performance in film entitled "Desert Warrior" affixed to film

2 b **NAME OF AUTHOR** ☒ Cindy Lee Garcia

DATES OF BIRTH AND DEATH Year Born ☒ 1957 Year Died ☒ NA

Was this contribution to the work a "work made for hire"? ☒ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country ☒ U.S.A. OR ☒ Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK ☒ Anonymously ☒ Pseudonymously ☒ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ☒ Dramatic performance fixed in tangible medium of expression (i.e. film)

2 c **NAME OF AUTHOR** ☒ Cindy Lee Garcia

DATES OF BIRTH AND DEATH Year Born ☒ 1957 Year Died ☒ NA

Was this contribution to the work a "work made for hire"? ☒ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country ☒ U.S.A. OR ☒ Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK ☒ Anonymously ☒ Pseudonymously ☒ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ☒ Dramatic performance fixed in tangible medium of expression (i.e. film)

3 a **YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED** This information must be given in all cases. ☒ 2011

3 b **DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK** Complete this information only if the work has been published. Month ☒ July Day ☒ 2 Year ☒ 2012

4 **COPYRIGHT CLAIMANT(S)** Name and address must be given even if the claimant is the same as the author given in space 2. ☒ Cindy Lee Garcia c/o The Armenta Law Firm, 11900 W Olympic Boulevard, Suite 730, Los Angeles, CA 90064

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ☒ [Ms. Garcia did not sign any work for hire agreement nor a release or relinquishment of her rights when she acted in "Desert Warrior."]

APPLICATION RECEIVED
☒ ONE DEPOSIT RECEIVED
☒ TWO DEPOSITS RECEIVED
☒ FUNDS RECEIVED

MORE ON BACK • Check all applicable spaces (numbers 4-9) on the reverse side of this page. • See detailed instructions. • Sign the form in line 5.

ER942

TOTAL P.03

EXAMINED BY	FORM FA
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR COPYRIGHT OFFICE USE ONLY
<input type="checkbox"/> Yes	

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) If your answer is No, do not check box A, B, or C.

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author or copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6a for a compilation.

6a. Identifying Material Identify any preexisting work or works of which this work is based on or incorporates.

6b. This information is not required for this space.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

Garcia gave a dramatic performance for "Desert Warrior" filmed in film in 2011. Since then, the producer of the film altered her performance, dubbing in words she did not say, and changing the film's intent and name to "Innocence of Muslims."

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name / Address / Apt / City / State / Zip

M. Cris Armenta, The Armenta Law Firm APC, 11900 W. Olympic Boulevard, Suite 730, Los Angeles, CA 90064

Area code and daytime telephone number (310) 826-2826 Fax number (310) 826-5456

Email cris@crisarmenta.com

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one ☐ author

☐ other copyright claimant

☐ owner of exclusive rights

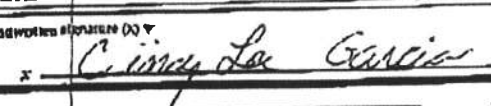
☐ authorized agent of

Name of author or other copyright claimant, in case of exclusive rights

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 8, do not sign and submit before that date.

Cindy Lee Garcia Date September 25, 2012

Handwritten signature (X) 

Characterize with box mailed in window envelope to this address:

Name

Address

City/State/Zip

1. Application form
2. Accompanying fee (in check or money order payable to: Copyright Office)
3. Deposit envelope
Library of Congress
Copyrights: Linda Pao
101 Independence Avenue SE
Washington, DC 20540-4270

P.03

SEP-25-2012 13:41
ER943



MATTHEW 25:31-40 (NLT)

31 "But when the Son of Man comes in his glory, and all the angels with him, then he will sit upon his glorious throne. 32 All the nations will be gathered in his presence, and he will separate the people as a shepherd separates the sheep from the goats. 33 He will place the sheep at his right hand and the goats at his left.

34 "Then the King will say to those on his right, 'Come, you who are blessed by my Father, inherit the Kingdom prepared for you from the creation of the world. 35 For I was hungry, and you fed me. I was thirsty, and you gave me a drink. I was a stranger, and you invited me into your home. 36 I was naked, and you gave me clothing. I was sick, and you cared for me. I was in prison, and you visited me.'

37 "Then these righteous ones will reply, 'Lord, when did we ever see you hungry and feed you? Or thirsty and give you something to drink? 38 Or a stranger and show you hospitality? Or naked and give you clothing? 39 When did we ever see you sick or in prison and visit you?'

40 "And the King will say, 'I tell you the truth, when you did it to one of the least of these my brothers and sisters, you were doing it to me!'

BECOME A SPONSOR

Your name:
Your photo:
Your Pastor:
Your Missionary Crew:
Your E-mail, phone, or both
Your commitment amount if you so choose

How can we preach except we be sent.

- Become a sponsor
- Become a "father" to the fatherless
- Become a mentor
- Feed the hungry
- Clothe the naked
- Provide Shelter
- Show the goodness of God

Together We Can Make A Difference - Pastor Cindy Garcia

**HELPING
THE FATHERLESS
4 Jesus**

*Our Mission is
Malawi, Africa*



Pastor Cindy Garcia (center) with Missionary Team

Prayer for the Fatherless

Prayer for the Fatherless

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 11900 Olympic Boulevard, Suite 730, Los Angeles, California 90064.

On November 30, 2012 I served the following document(s) described as:

**DECLARATION OF JAMES A. BLANCO IN SUPPORT OF OBJECTION
AND REQUEST TO STRIKE DECLARATIONS OF TIM ALGER AND
MARK BASSELEY YOUSSEF**

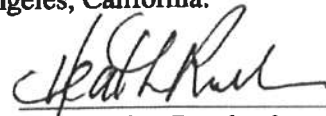
on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**Timothy L. Alger
Perkins Coie LLP
3150 Porter Drive
Palo Alto, CA 94304-1212
(by mail and courtesy email)**

**Nakoula B. Nakoula aka
Mark Basseley Youssef
Metropolitan Detention Center
Inmate #56329-112
180 N. Los Angeles St.
Los Angeles, CA 90012
(by mail only)**

✓ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, California, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

Executed on November 30, 2012 in Los Angeles, California.


Heather Rowland

Name M. Cris Armenta, The Armenta Law Firm, SBN#177403
 Address 11900 Olympic Blvd, Suite 730
 City, State, Zip Los Angeles, CA 90064
 Phone 310-826-2826 x108
 Fax 310-826-5456
 E-Mail cris@crisarmenta.com
☐ FPD ☐ Appointed ☐ CJA ☐ Pro Per ☒ Retained

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

Cindy Lee Garcia PLAINTIFF(S), v. Nakoula Basseley Nakoula, et al. DEFENDANT(S).	CASE NUMBER: NOTICE OF APPEAL
--	---

NOTICE IS HEREBY GIVEN that Cindy Lee Garcia hereby appeals to
Name of Appellant
 the United States Court of Appeals for the Ninth Circuit from:

Criminal Matter

- ☐ Conviction only [F.R.Cr.P. 32(j)(1)(A)]
☐ Conviction and Sentence
☐ Sentence Only (18 U.S.C. 3742)
☐ Pursuant to F.R.Cr.P. 32(j)(2)
☐ Interlocutory Appeals
☐ Sentence imposed:

Civil Matter

- ☒ Order (specify):
 Order Denying Plaintiff Garcia's Motion for
Preliminary Injunction
☐ Judgment (specify):
☐ Other (specify):

☐ Bail status:

Imposed or Filed on November 30, 2012. Entered on the docket in this action on November 30, 2012.

A copy of said judgment or order is attached hereto.

December 21, 2012

Date

Signature

☐ Appellant/ProSe ☒ Counsel for Appellant ☐ Deputy Clerk

Note: The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 12-08315-MWF (VBKx)** Date: **November 30, 2012**

Title: **Cindy Lee Garcia -v- Nakoula Basseley Nakoula, et al.**

**PRESENT: HONORABLE MICHAEL W. FITZGERALD, U.S. DISTRICT
JUDGE**

Rita Sanchez
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

**PROCEEDINGS (IN CHAMBERS): ORDER DENYING PLAINTIFF
GARCIA'S MOTION FOR
PRELIMINARY INJUNCTION [12]**

On October 17, 2012, Plaintiff Cindy Lee Garcia filed an Ex Parte Application for a Temporary Restraining Order and an Order to Show Cause Re Preliminary Injunction, and Order of Impoundment (the "Application"). (Docket No. 12). On October 18, 2012, Garcia's request for a temporary restraining order was denied, and the Application was construed as a motion for a preliminary injunction. (See Docket No. 15). This matter is now before the Court on Garcia's motion for preliminary injunction (the "Motion"). (See *id.*) Defendants Google Inc. and YouTube, LLC have filed an Opposition, and Garcia has filed a Reply. (Docket Nos. 22, 27).

The Court has read and considered the papers filed on this Motion and deems the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15. Accordingly, the hearing set for **December 3, 2012**, is removed from the Court's calendar.

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 12-08315-MWF (VBKx)**

Date: **November 30, 2012**

Title: Cindy Lee Garcia -v- Nakoula Basseley Nakoula, et al.

GmbH & Co., 571 F.3d 873, 877 (9th Cir. 2009) (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008)).

Furthermore, this injunction would require affirmative conduct by Defendants, *i.e.* Defendants' immediate action in regard to the Film. Therefore, Garcia's Motion "is subject to heightened scrutiny and should not be issued unless the facts and law clearly favor" her as the moving party. *See Dahl v. HEM Pharms. Corp.*, 7 F.3d 1399, 1403 (9th Cir. 1993) (requiring defendant to provide drug to patients).

Garcia alleges that Defendants have infringed her purported copyright in a trailer for a film (the "Film"). (*See generally* Compl. (Docket No. 1)). The Film was posted for public viewing on YouTube on July 2, 2012 – five months ago. Given this five-month delay, Garcia has not demonstrated that the requested preliminary relief would prevent any alleged harm. *Seto v. Thielen*, Civil No. 10-00351 SOM-BMK, 2010 WL 2612603, at *2 (D. Haw. June 28, 2010) ("Given Plaintiffs' allegation that the septic system is currently leaking raw sewage into Kaneohe Bay, the requested injunction would not necessarily prevent irreparable harm to Plaintiffs, as the leaking of the raw sewage would continue with or without [the defendant's] presence at the park.").

Nor has Garcia established a likelihood of success on the merits. Even assuming both that Garcia's individual performance in the Film is copyrightable and that she has not released this copyright interest, the nature of this copyright interest is not clear. Nor is it clear that Defendants would be liable for infringement.

As was the case in *Aalmuhammed v. Lee*, 202 F.3d 1227 (9th Cir. 2000), the Film "is a copyrightable work, and it is undisputed that the movie was intended by everyone involved with it to be a unitary whole." *Id.* at 1231. Additionally, a copyright in a work "vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work." 17 U.S.C. § 201(a).

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Garcia does not argue that she is the sole author of the Film, nor does she argue that the Film was a joint work of which she was a co-author. According to the United States Supreme Court, the “author” is the “person to whom the work owes its origin and who superintended the whole work.” *Aalmuhammed*, 202 F.3d at 1233 (citing *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 61, 4 S. Ct. 279, 28 L. Ed. 349 (1884)). By Garcia’s own allegations and argument, she does not meet this standard with respect to the Film. Furthermore, Garcia concedes that she does not have joint authorship over the Film or joint ownership of the copyright in the Film. (See Reply at 12 n.11).

Therefore, Garcia appears to argue only that she owns the copyright in her performance within the Film. Even if this copyright interest were cognizable and proven, by operation of law Garcia necessarily (if impliedly) would have granted the Film’s author a license to distribute her performance as a contribution incorporated into the indivisible whole of the Film. See *Effects Assocs., Inc. v. Cohen*, 908 F.2d 555, 558-59 (9th Cir. 1990) (“[The plaintiff] created a work at defendant’s request and handed it over, intending that defendant copy and distribute it. . . . Accordingly, we conclude that [the plaintiff] impliedly granted nonexclusive licenses to [the defendant] and his production company to incorporate the special effects footage into [the film]” and then “to distribute the film”). Garcia has introduced no evidence to the contrary.

Accordingly, Garcia’s Motion (Docket No. 12) is DENIED.

Given the discussion above, the Court need not reach the issues of the balance of equities and the public interest.

IT IS SO ORDERED.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 11900 Olympic Boulevard, Suite 730, Los Angeles, California 90064.

On December 21, 2012 I served the following document(s) described as:

NOTICE OF APPEAL

on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**Timothy L. Alger
Perkins Coie LLP
3150 Porter Drive
Palo Alto, CA 94304-1212**

**Nakoula B. Nakoula aka
Mark Basseley Youssef
Metropolitan Detention Center
Inmate #56329-112
180 N. Los Angeles St.
Los Angeles, CA 90012
(Courtesy copy)**

✓ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Los Angeles, California, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

Executed on December 21, 2012 in Los Angeles, California.


Heather Rowland